

2021

Report to the Colorado General Assembly



Pension Review Commission and Pension Review Subcommittee



Prepared by Legislative Council Staff
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Pension Review Commission and Pension Review Subcommittee

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November 2021

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November 2021

To Members of the Seventy-third General Assembly:

Submitted herewith is the final report of the Pension Review Commission. This committee was created pursuant to Article 51.1 of Title 24, Colorado Revised Statutes. The purpose of the commission is to study and review the two major pension plans in the state — the Fire and Police Pension Association for police officers and firefighters employed by local governments and the Public Employees' Retirement Association pension for state and local government employees, to develop proposed legislation, and to report back to the legislature and general public.

At its meeting on November 15, 2021, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 2022 session was approved.

Additionally, this document serves as the final report of the Pension Review Subcommittee. Pursuant to Section 24-51.1-101 (3)(a), the Pension Review Subcommittee must focus on the financial health of PERA. The subcommittee conducted an independent review of PERA and recommended a bill to the Pension Review Commission.

Sincerely,

/s/ Senator Leroy Garcia
Chair

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This report is also available online at:

<https://leg.colorado.gov/committees/pension-review-commission/2021-regular-session>

Commission and Subcommittee Charges

Pension Review Commission. Pursuant to Section 24-51.1-101, C.R.S., the Pension Review Commission is required to study and develop proposed legislation relating to funding and benefit design of police officers' and firefighters' pensions in the state, which are primarily managed by the Fire and Police Pension Association (FPPA). In addition, the commission must study and may develop proposed legislation relating to the Public Employees' Retirement Association (PERA). Specifically, the law directs the commission to study, review, and propose legislation related to the following subjects including, but not limited to:

- normal retirement age;
- payment of benefits prior to normal retirement age;
- service requirements for eligibility;
- rate of accrual of benefits;
- disability benefits;
- survivors' benefits;
- vesting of benefits;
- employee and employer contributions;
- post-retirement increases;
- creation of an administration board;
- creation of a consolidated statewide system;
- coordination of benefits with other programs;
- the volunteer firefighter pension system; and
- state laws related to each pension system.

The Pension Review Commission also hears any recommendations from the Pension Review Subcommittee, which is a year-round, 14-member body tasked with studying the financial health of PERA.

Pension Review Subcommittee. Pursuant to Section 24-51.1-101 (3)(a), the Pension Review Subcommittee focuses on PERA's financial health. Specifically, the subcommittee is responsible for:

- making recommendations to the Pension Review Commission regarding PERA;
- determining the necessity of continuing the annual direct distribution of \$225 million in state funding to PERA;
- suggesting enhancements to PERA's analysis tools and determining whether PERA's model assumptions are meeting targets and achieving sustainability;
- reviewing the annual actuarial valuation of PERA and making comments as necessary;
- making recommendations to PERA's board regarding assumptions, funding policy, reporting practices, or other operational policy;
- semi-annually reviewing the overall financial health of PERA, including the levels of benefits, its sources of funding, and its overall financial viability based on both the assumptions of the board and the requirements of the Governmental Accounting Standards Board, and requesting that PERA adjust its assumptions as appropriate;
- reviewing annually the calculated normal costs that will cover current pension benefits and the share of contributions going to cover PERA's unfunded liability;

- reviewing semi-annually the planned reduction of PERA's unfunded liability, providing an annual report to the General Assembly regarding whether or not PERA is on track to achieve full funding by 2048, and making recommendations to rectify the shortfall as needed;
- providing an annual written report to Colorado citizens on whether PERA is on track to achieve full funding by 2048, and, if not, a report of the corrective actions recommended by the subcommittee or PERA to the legislature to rectify the shortfall;
- after full funding is achieved, making recommendations to the commission, the Joint Budget Committee, and the General Assembly during each legislative session regarding changes to the plan to maintain full funding;
- ensuring PERA's board is administering the association as mandated and making recommendations for the board's structure as warranted; and
- every three years, commissioning an independent review of the economic and investment assumptions used to model PERA's financial situation. The subcommittee shall use experts other than those already working on behalf of the association.

Commission Activities

The Pension Review Commission met twice during the 2021 interim to receive presentations from the FPPA, PERA, and the Pension Review Subcommittee. The following sections discuss the committee's activities during the 2021 interim.

Fire and Police Pension Association Update

The Fire and Police Pension Association. FPPA executives briefed the commission on FPPA plan design and funded status, and presented two bill draft requests. The first bill merges the assets and liabilities of its Statewide Hybrid Plan and Statewide Defined Benefit Plan, including all plan components, into a new Statewide Retirement Plan. The second bill requires a state payment of \$33.2 million to the FPPA to account for an update of actuarial assumptions related to the state's obligation for death and disability benefits for FPPA members hired prior to 1997.

Commission recommendations. As a result of FPPA's legislative proposal, the commission recommends Bill A, to merge two FPPA plans into a new Statewide Retirement Plan. It also recommends Bill B, which appropriates \$33.2 million to the FPPA.

Public Employees' Retirement Association Update

Public Employees' Retirement Association. PERA executives briefed the commission on PERA plans and their funded status. They also provided information on PERA's governance, the automatic adjustment provision, the investment program and investment performance, and changes to defined contribution plan management.

Legislative Recommendations from the Pension Review Subcommittee

The Pension Review Subcommittee chair provided an overview of the subcommittee's work over the 2021 interim and presented the subcommittee's legislative recommendation to restore the missed July 2020 direct distribution, plus missed investment gains, to PERA.

Commission recommendations. Following the recommendation of the Pension Review Subcommittee, the commission recommends Bill C, to appropriate \$303.57 million to PERA, which reflects the suspended direct distribution payment plus an estimate of investment gains that would have accrued on that amount from July 1, 2020, through June 30, 2022.

Subcommittee Activities

The Pension Review Subcommittee held two meetings during the 2021 legislative session and three meetings during the 2021 interim. Briefings and presentations were made by an independent auditor and PERA on PERA's financial situation. The following sections discuss the subcommittee's activities during the 2021 interim.

Independent PERA Review

Using the independent auditing firm—Gabriel, Roeder, Smith & Company (GRS)—that the subcommittee hired through a selection process it initiated during the 2021 legislative session, the subcommittee met its obligation to commission an independent review of the economic and investment assumptions used to model PERA's financial situation over the 2021 interim.

Request for proposal. The request for proposal required the independent review to include the following information:

- an analysis of the validity and appropriateness of the actuarial methods and assumptions adopted by the PERA board that are used in the actuarial valuations of the financial situation of the Hybrid DB Plan;
- identification of deviations in actuarial methods and assumptions that have resulted in the existing Hybrid DB Plan terms and provisions no longer meeting targets and achieving sustainability that could indicate that assumptions should be changed;
- recommendations regarding any adjustments that should be considered with respect to the assumptions used to model PERA's financial situation;
- an analysis of whether or not PERA is on track to achieve full funding by 2048, including the likelihood of achieving full funding, and, if not, recommendations for corrective actions;
- an analysis of the calculated normal costs that will cover current pension benefits and the share of contributions going to cover the unfunded liability of PERA;
- a recommendation regarding the necessity of continuing the direct distribution to PERA;
- recommendations about enhancements that PERA could make to the annual analysis that it conducts pursuant to Senate Bill 14-214 to determine whether its model assumptions are meeting targets and achieving sustainability; and

- any other recommendations the subcommittee could make to PERA regarding assumptions, funding policy, reporting practices, or other operational policies.

GRS' planning and fieldwork phases for the project occurred from March through August 2021. Reporting was provided to the committee over the course of two meetings.

PERA assumption review. GRS briefed the committee on its findings related to PERA's demographic assumptions, funding policy, and communications during its first presentation on August 19, 2021. GRS' second presentation to the subcommittee, on September 2, 2021, focused on GRS' recommendations. These presentations and GRS' final report are available on the subcommittee's website.¹

- **Experience study review.** The analysis evaluated PERA's 2020 experience study and found that PERA's current assumed rate of return on investments is comparable to the current median return assumption used by large public sector plans, and is "reasonable." The 2020 experience study also changed PERA's mortality assumptions from a static to a generational approach, which GRS noted is the industry standard and agrees with, while noting that change created a one-time increase in costs and liabilities. The final significant change resulting from the 2020 experience study that GRS addressed is the reduction in payroll growth assumptions, reduced from 3.5 percent to 3.0 percent, with population growth assumptions decreased as well, which GRS also agreed with based on data provided and comparison to peer pension systems.

The analysis also evaluated PERA's 2016 experience study, which also changed mortality assumptions. GRS found that any bias in this study tended toward plan underperformance. In actual 2016 to 2019 experience, non-mortality demographic experience produced more losses than investment returns produced in gains, with the average smoothed investment return at 8.74 percent. GRS noted that the other demographic losses were masked in the annual actuarial valuations by strong investment performance, fixed contributions, and complicated valuation reports.

- **Withdrawal assumptions.** GRS found that PERA's withdrawal (or turnover) assumptions in 2016 were the opposite of actuarial experience leading up to the study, and done on a count-weighted basis. In 2020, the assumption was made on a liability-weighted basis, an approach with which GRS agrees. The count-weighted basis is known to produce bias to underestimate liability growth. GRS opined that it is likely that future experience will more resemble the reconciled data from 2016 to 2019 than the previous assumption. Further, it is likely that future valuations will experience losses from this source until the experience is fully recognized, which will require a meaningful adjustment to actuarially defined contributions at that time. GRS noted that PERA's 2020 Signal Light Report acknowledged these possible future assumption changes. The report noted that the recommended assumptions were set in between the prevailing assumption and the recent experience in order not to overreact to short-term, recent experience; however, if recent

¹GRS PERA Assumption Review Presentation, August 19:
https://leg.colorado.gov/sites/default/files/images/lcs/aug19meeting_pera_assumptionreview.pdf.
 GRS PERA Assumption Review Presentation, September 2:
https://leg.colorado.gov/sites/default/files/images/lcs/grs_presentation_sept2meeting.pdf; and
 GRS Final Report:
https://leg.colorado.gov/sites/default/files/images/lcs/grs_pera_2021_assumptionreview_report.pdf

historical experience is indicative of future trends, further withdrawal-related assumption changes will be required.

- **Normal cost and new hire "losses."** GRS also discussed PERA's normal cost calculation and noted that it does not anticipate members will be hired in the upcoming year. GRS asserted that PERA's normal cost is low as a result of this practice.
- **On track for full funding.** GRS found that PERA is on track for full funding by 2048, assuming current assumptions are met and that contributions and benefits are unchanged.
- **Unfunded liability.** The current unfunded liability of PERA, according to its certified annual financial report for the year ending December 31, 2020, is \$31.0 billion. On a per citizen basis, using 5.78 million as the current state population per the State Demography Office, this equates to \$5,363 per person.²

Recommendations. GRS made the following technical and communication-based recommendations for subcommittee consideration.

1. Request PERA accelerate the timing of the next experience study to 2022, from 2024, for use in the December 31, 2022, valuation, with emphasis on: withdrawal and retirement assumptions, and treatment of new members in projections.
2. Request PERA shorten amortization periods used for future layers to line up with 2048 full-funding goal.
3. Request that PERA include a historical reconciliation of gains and losses by source in the signal light report.
4. Request the valuation and signal light report include a clear statement of the main goals of the funding policy and the progress toward achieving those goals.
5. Request more consistent messaging and definition of the term "funding period," to be distinct from the amortization period.

Responses to Independent PERA Review and Recommendations

PERA and its actuarial firm, Segal, provided feedback on the independent review to the subcommittee. Both presentations are available on the subcommittee's website.³ Due to meeting time constraints, the subcommittee asked for additional written responses from GRS and PERA, which are also available on the subcommittee's website.⁴

²As required by Section 24-51.1-101 (3)(e), C.R.S., assuming \$31.0 billion in unfunded liability pursuant to PERA's most recent certified annual financial report: https://www.copera.org/sites/default/files/documents/5-20-20_1.pdf

³PERA presentation, September 10:

https://leg.colorado.gov/sites/default/files/images/pera_presentation_pension_review_subcommittee_9.10.21_0.pdf;

Segal presentation, September 10: https://leg.colorado.gov/sites/default/files/images/segal_colorado_pera_pension_review_subcommittee_presentation_0.pdf

⁴GRS follow-up items: https://leg.colorado.gov/sites/default/files/images/lcs/grs_follow-up_comments.pdf;

PERA responses to subcommittee questions:

https://leg.colorado.gov/sites/default/files/images/lcs/pera_responses_to_subcommittee_questions_-_9.20.21.pdf

Response to GRS recommendations. PERA and its actuarial firm provided responses to each of the five GRS recommendations.

- **Response to Recommendation 1.** PERA presented a significant events timeline to highlight the many studies, audits, policy setting, planning, reviews, reports, and true-ups it will conduct between 2021 and 2026 and to show that actuarial work is scheduled which will inform PERA's assumption setting prior to the next scheduled experience study. Segal discussed pandemic-related effects on workforce and their efforts not to overreact to current events. It also provided detailed information about recent assumption changes resulting from the last experience study. PERA asserted that the goal of Recommendation 1 is already being met.
- **Response to Recommendation 2.** PERA noted that the board had discussed this approach and intentionally kept its current amortization periods.
- **Response to Recommendations 3 through 5.** PERA expressed appreciation for GRS's recommendations related to communication improvements and stated that the PERA board will take those recommendations into consideration as it updates its reporting.

PERA update. PERA had Segal provide a summary of PERA's most recent valuation report, assumption changes, asset returns, the annual adjustment mechanism, membership, and more, which is fully detailed in the presentation available in Footnote 2. At the committee's request, PERA's Chief Investment Officer provided detailed information on PERA's investment program.

Subcommittee Recommendations to PERA and the Commission

The subcommittee made the following recommendations to PERA and the Pension Review Commission. These letters are available on the subcommittee's website.⁵

Recommendations to the PERA Board. The subcommittee's three recommendations to the PERA board are:

- revise the signal light report to show green only when a 67 percent likelihood of reaching full funding by 2048 for all divisional trusts on aggregate is reached.
- shorten amortization periods used for future layers to align with the goal of reaching full funding by 2048; and
- include a historical reconciliation of gains/losses by source in the signal light report.

Recommendation to the Pension Review Commission. The Pension Review Subcommittee recommends that the Pension Review Commission sponsor a bill in the 2022 legislative session to make a one-time payment of \$225.0 million, plus missed investment gains, to restore the missed July 1, 2020, direct distribution payment to PERA.

⁵ Subcommittee recommendations to the Pension Review Commission:

https://leg.colorado.gov/sites/default/files/images/lcs/subcommittee_recommendations_to_the_pension_review_commission_2021_0.pdf

Subcommittee recommendations to the PERA Board of Trustees:

https://leg.colorado.gov/sites/default/files/images/lcs/subcommittee_recommendations_to_the_pera_board_2021.pdf

Summary of Recommendations

As a result of the commission's activities, it recommended three bills to the Legislative Council for consideration in the 2022 session. At its meeting on November 15, 2021, the Legislative Council approved all three recommended bills for introduction. The approved bills are described below.

Bill A — FPPA Statewide Retirement Plan

Effective January 1, 2023, the bill merges the assets and liabilities of the FPPA-administered Statewide Hybrid Plan and Statewide Defined Benefit Plan, including all plan components, into a new Statewide Retirement Plan.

In addition to outlining plan administration and benefits, the bill:

- creates an annuity on Statewide Hybrid Plan benefits accrued prior to the merger to account for the Statewide Hybrid Plan's higher funded ratio, to be based on funded status at time of merger;
- continues a gradual phase-in of employer and employee contribution rate increases enacted through House Bill 20-1044, and creates a new phased-in increase to pay for the costs related to new retirement benefits in the bill;
- creates new parity between the plans by giving the same retirement eligibility currently available to Statewide Defined Benefit Plan members (Rule of 80, which means a beneficiary is retirement eligible when their age plus service credit equal 80) to Statewide Hybrid Plan members and by giving Statewide Defined Benefit Plan members a money purchase component currently available to only Statewide Hybrid Plan members;
- provides additional privacy protections for plan members; and
- extends the death and disability application deadline from 180 to 365 days.

The bill reflects an FPPA Task Force recommendation to merge the assets and liabilities of the Statewide Hybrid Plan with the Statewide Defined Benefit Plan, including the Social Security Supplemental Plan, due to the small size of the Statewide Hybrid Plan. For more information on the legislative recommendation, see <https://www.forwardwithfppa.org>. The FPPA's most recent Certified Annual Financial Report is available online at: <https://www.fppaco.org/PDF/annual-reports/2020-Annual-Report-FPPA.pdf>.

Bill B — State Payment Old Hire Death and Disability Benefits

On January 31, 2022, the bill requires the state treasurer to pay \$33.191 million from the General Fund to the FPPA for deposit into the FPPA's Statewide Death and Disability Trust Fund.

Death and disability benefits for FPPA members hired before January 1, 1997 ("old hires") were paid with state funding to the Statewide Death and Disability Trust Fund, however, state funding for this benefit discontinued in 1997 based on an actuarial assumption that the last payment of \$39.0 million had fully funded the plan. A current actuarial analysis performed by GRS, the FPPA's actuarial firm, indicates a shortfall of \$33.191 million in the trust fund. This amount is projected to grow each year

by an estimated 7 percent, or roughly \$2 million per year. For further information, see GRS's memo regarding State Funding of the Statewide Death and Disability Plan for Pre-1997 Hires: <https://forwardwithfppa.org/documents/GRS-estimate-state-liability-2021-05-21.pdf>.

Bill C — Compensatory Direct Distribution to PERA

The bill requires the State Treasurer to issue a warrant to PERA for \$303.57 million on July 1, 2022. This amount reflects the suspended direct distribution payment to PERA of \$225.0 million from July 1, 2020, plus an estimate of investment gains that would have accrued on that amount from July 1, 2020, through June 30, 2022.

The estimate of investment gains that would have accrued over two years is based on:

- PERA's actual annual investment return of 25.8 percent in FY 2020-21 (\$58.05 million); and
- on top of the prior year's total, PERA's annual rate of return of 7.25 percent for FY 2021-22 (\$20.52 million).

Senate Bill 18-200 created the requirement for an annual direct distribution to be paid to PERA each July 1 until the unfunded liabilities of the state, judicial, school, and Denver Public Schools divisional trusts are paid. PERA is required to credit these funds proportionally to the relevant divisional trusts based on the reported payroll for each participating division for the prior plan year ending December 31. The direct distribution is paid primarily from the General Fund, but may also come from cash funds—including the PERA Payment Cash Fund created by Senate Bill 21-228—reappropriated funds, and federal funds. House Bill 20-1379 suspended the July 1, 2020, direct distribution payment to PERA.

Resource Materials

Meeting summaries are prepared for each meeting of the commission and subcommittee and contain all handouts provided to each entity. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of commission and subcommittee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

<https://leg.colorado.gov/content/committees>

Meeting Date and Topics Discussed

Pension Review Subcommittee

February 26, 2021

- Opening comments from Legislative Council Staff
- Discussion of proposals for independent review of PERA

March 12, 2021

- Planning meeting for PERA review

August 19, 2021

- Review initial findings of independent audit of PERA prepared by GRS

September 2, 2021

- Review final report of independent audit of PERA prepared by GRS

September 10, 2021

- Presentation from PERA in response to independent audit
- Subcommittee recommendations to PERA and the Pension Review Commission

Pension Review Commission

September 14, 2021

- Presentation from the FPPA
- Presentation from PERA
- Presentation from the Pension Review Subcommittee
- Bill draft requests

October 26, 2021

- Approval of bill draft requests

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

Attachment A

BILL A

LLS NO. 22-0173.01 Jason Gelender x4330

HOUSE BILL

HOUSE SPONSORSHIP

Bird and Sandridge, Exum, Sirota, Van Winkle

SENATE SPONSORSHIP

Garcia and Priola, Bridges, Kolker

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADMINISTRATION OF RETIREMENT PLANS**
102 **ADMINISTERED BY THE FIRE AND POLICE PENSION ASSOCIATION,**
103 **AND, IN CONNECTION THEREWITH, MERGING THE STATEWIDE**
104 **DEFINED BENEFIT PLAN, THE STATEWIDE HYBRID PLAN, AND THE**
105 **SOCIAL SECURITY SUPPLEMENTAL PLAN INTO A SINGLE NEW**
106 **STATEWIDE RETIREMENT PLAN.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Pension Review Commission. The fire and police pension

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

association (association) administers a number of retirement plans for police officers and firefighters throughout the state, including the statewide defined benefit plan, the statewide hybrid plan, and the social security supplemental plan. Effective January 1, 2023, the bill merges these 3 plans into separate components of a new plan to be known as the "statewide retirement plan". The bill provides for the following with respect to the statewide retirement plan:

- The administration of the plan by the association;
- The deposit and investment of funds for the plan;
- Membership requirements;
- Employer and member contribution rates for each component of the plan, including phased future increases for specified rates;
- The purchase of service credit by members;
- Vesting and retirement eligibility requirements;
- Annual actuarial valuation of the plan;
- Actions that may be taken by the board of the association to ensure that the plan is fully funded on an actuarially sound basis;
- Pension and optional survivor benefits;
- Late and deferred retirement options;
- Cost of living adjustments;
- Refunds of contributions to members; and
- Modification of the plan by the board of the association.

The bill also:

- Provides for the confidentiality of information contained in the records of members of the association;
- Extends the deadline to file an application for disability; and
- Makes conforming amendments to and repeals portions of the existing statutes governing the statewide defined benefit plan, the statewide hybrid plan, and the social security supplemental plan.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 31.5 to
3 title 31 as follows:

4 **ARTICLE 31.5**

5 **Fire and Police Pension Association of Colorado**

6 **Statewide Retirement Plan**

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PART 1

ESTABLISHMENT AND ADMINISTRATION

31-31.5-101. Establishment of the statewide retirement plan

- definitions. (1) THE STATEWIDE RETIREMENT PLAN IS HEREBY ESTABLISHED TO PROVIDE DEFINED BENEFIT AND MONEY PURCHASE RETIREMENT BENEFITS TO MEMBERS OF EMPLOYERS AFFILIATED WITH THE PLAN. INITIAL EMPLOYERS AFFILIATED WITH THE PLAN INCLUDE THOSE DEPARTMENTS THAT PARTICIPATED IN THE STATEWIDE DEFINED BENEFIT PLAN ESTABLISHED PURSUANT TO PART 4 OF ARTICLE 31 OF THIS TITLE 31, THE STATEWIDE HYBRID PLAN ESTABLISHED PURSUANT TO PART 11 OF ARTICLE 31 OF THIS TITLE 31, AND THE SOCIAL SECURITY SUPPLEMENTAL PLAN ESTABLISHED PURSUANT TO PART 7 OF ARTICLE 31 OF THIS TITLE 31 AS SUCH PLANS EXISTED BEFORE THEIR MERGER INTO THE STATEWIDE RETIREMENT PLAN PURSUANT TO _____ BILL 22-_____, ENACTED IN 2022.

(2) THE BOARD IS THE TRUSTEE OF THE STATEWIDE RETIREMENT PLAN, AND HAS THOSE FIDUCIARY DUTIES TO THE PLAN AND THE MEMBERS OF THE PLAN AS EXPRESSLY PROVIDED BY LAW.

(3) THE BOARD, AS A FIDUCIARY, MAY DELEGATE ONE OR MORE OF ITS RESPONSIBILITIES UNDER THIS ARTICLE 31.5 BUT SHALL MAINTAIN ITS RESPONSIBILITY FOR OVERSIGHT OF THE DELEGATION.

(4)(a) THE STATEWIDE RETIREMENT PLAN IS INTENDED TO COMPLY WITH THE QUALIFICATION REQUIREMENTS SPECIFIED IN SECTION 401(a) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED AND APPLICABLE TO GOVERNMENTAL PLANS, AS DEFINED IN SECTION 414(d) OF SAID CODE.

(b) THE BOARD MAY ADOPT ANY PROVISION FOR THE PLAN THAT IS NECESSARY OR IN THE BOARD'S JUDGMENT PRUDENT TO COMPLY WITH STATE OR FEDERAL LAW.

1 (5) AS USED IN THIS ARTICLE 31.5, UNLESS THE CONTEXT
2 OTHERWISE REQUIRES:

3 (a) "ACTUARIALLY SOUND" MEANS A POLICE OFFICERS' OR
4 FIREFIGHTERS' PENSION FUND DETERMINED BY THE BOARD TO BE
5 RECEIVING OR SCHEDULED TO RECEIVE EMPLOYER AND MEMBER
6 CONTRIBUTIONS IN EACH FISCAL YEAR EQUAL TO THE ANNUAL
7 CONTRIBUTIONS ACTUARIALLY DETERMINED TO BE NECESSARY TO PAY
8 THE ANNUAL CURRENT SERVICE COST OF PENSION BENEFITS ATTRIBUTABLE
9 TO ACTIVE EMPLOYEES AND TO PAY THE ANNUAL CONTRIBUTION
10 NECESSARY TO AMORTIZE ANY UNFUNDED ACCRUED LIABILITY OVER A
11 PERIOD NOT TO EXCEED FORTY YEARS. THE ACTUARIAL COST METHOD TO
12 BE UTILIZED SHALL BE THE ENTRY AGE-NORMAL COST METHOD. THE DATE
13 FROM WHICH UNFUNDED LIABILITIES SHALL BE AMORTIZED SHALL BE
14 DETERMINED PURSUANT TO PART 3 OF ARTICLE 30.5 OF THIS TITLE 31.

15 (b) "ASSOCIATION" MEANS THE FIRE AND POLICE PENSION
16 ASSOCIATION CREATED IN SECTION 31-31-201 (1).

17 (c) "BOARD" MEANS THE BOARD OF DIRECTORS ESTABLISHED AS
18 THE GOVERNING BODY OF THE FIRE AND POLICE PENSION ASSOCIATION AS
19 PROVIDED IN SECTION 31-31-201 (2).

20 (d) "EMPLOYER" MEANS ANY MUNICIPALITY IN THIS STATE
21 OFFERING POLICE OR FIRE PROTECTION SERVICE EMPLOYING ONE OR MORE
22 MEMBERS AND ANY SPECIAL DISTRICT, FIRE AUTHORITY, OR COUNTY
23 IMPROVEMENT DISTRICT IN THIS STATE OFFERING FIRE PROTECTION
24 SERVICE EMPLOYING ONE OR MORE MEMBERS.

25 (e) "LIFETIME BENEFIT COMPONENTS" MEANS THE DEFINED
26 BENEFIT COMPONENT, THE SOCIAL SECURITY COMPONENT, AND THE
27 HYBRID COMPONENT, AS DESCRIBED IN THIS ARTICLE 31.5, COLLECTIVELY.

1 (f) "MEMBER" MEANS AN ACTIVE EMPLOYEE WHO IS A FULL-TIME
2 SALARIED EMPLOYEE OF A MUNICIPALITY, FIRE PROTECTION DISTRICT, FIRE
3 AUTHORITY, OR COUNTY IMPROVEMENT DISTRICT NORMALLY SERVING AT
4 LEAST ONE THOUSAND SIX HUNDRED HOURS IN ANY CALENDAR YEAR AND
5 WHOSE DUTIES ARE DIRECTLY INVOLVED WITH THE PROVISION OF POLICE
6 OR FIRE PROTECTION, AS CERTIFIED BY THE MEMBER'S EMPLOYER.
7 "MEMBER" ALSO INCLUDES AN ACTIVE EMPLOYEE WHO WORKS LESS THAN
8 SIXTEEN HUNDRED HOURS PER YEAR BUT OTHERWISE QUALIFIES AS A
9 MEMBER AND WHOSE EMPLOYER ELECTS TO TREAT ALL SUCH OTHER
10 SIMILAR EMPLOYEES AS MEMBERS. THE TERM DOES NOT INCLUDE
11 CLERICAL OR OTHER PERSONNEL WHOSE SERVICES ARE AUXILIARY TO
12 POLICE PROTECTION, OR ANY VOLUNTEER FIREFIGHTER, AS SUCH TERM IS
13 DEFINED IN SECTION 31-30-1102 (9). FOR THE PURPOSE OF PARTICIPATION
14 IN THE STATEWIDE DEFINED BENEFIT PLAN PURSUANT TO PART 4 OF THIS
15 ARTICLE OR THE STATEWIDE MONEY PURCHASE PLAN PURSUANT TO PART
16 5 OF THIS ARTICLE 31.5, BUT NOT FOR THE PURPOSE OF PARTICIPATION IN
17 THE STATEWIDE DEATH AND DISABILITY PLAN PURSUANT TO PART 8 OF
18 THIS ARTICLE 31.5, THE TERM MAY INCLUDE CLERICAL OR OTHER
19 PERSONNEL EMPLOYED BY A FIRE PROTECTION DISTRICT, FIRE AUTHORITY,
20 OR COUNTY IMPROVEMENT DISTRICT, WHOSE SERVICES ARE AUXILIARY TO
21 FIRE PROTECTION. FOR THE PURPOSE OF ELIGIBILITY FOR DISABILITY OR
22 SURVIVOR BENEFITS, "MEMBER" INCLUDES ANY EMPLOYEE ON AN
23 AUTHORIZED LEAVE OF ABSENCE.

24 (g) "MONEY PURCHASE PLAN" OR "MONEY PURCHASE PENSION
25 PLAN" MEANS A RETIREMENT PLAN UNDER WHICH:

26 (I) THE EMPLOYER HAS A FIXED OBLIGATION TO MAKE AN ANNUAL
27 CONTRIBUTION TO THE PLAN;

1 (II) AN INDIVIDUAL ACCOUNT FOR EACH MEMBER IS PROVIDED;
2 AND

3 (III) THE MEMBER'S BENEFITS ARE BASED SOLELY ON THE AMOUNT
4 CONTRIBUTED TO THE MEMBER'S ACCOUNT AND ANY INCOME, EXPENSES,
5 GAINS, AND LOSSES ALLOCATED TO THE MEMBER'S ACCOUNT.

6 (h) "PREDECESSOR PLANS" MEANS THE STATEWIDE DEFINED
7 BENEFIT PLAN FORMERLY GOVERNED BY PART 4 OF ARTICLE 31 OF THIS
8 TITLE 31, THE STATEWIDE HYBRID PLAN FORMERLY GOVERNED BY PART 11
9 OF ARTICLE 31 OF THIS TITLE 31, AND THE SOCIAL SECURITY
10 SUPPLEMENTAL PLAN FORMERLY GOVERNED BY PART 7 OF ARTICLE 31 OF
11 THIS TITLE 31.

12 (g) "RETIRED MEMBER" MEANS ANY MEMBER WHO IS RETIRED,
13 DISABLED, OR ELIGIBLE FOR A BENEFIT AS PROVIDED IN SECTION 31-31-404
14 (2).

15 **31-31.5-102. Administration of the plan.**

16 (1) (a) CONTRIBUTIONS AND EARNINGS TO ALL COMPONENTS OF THE
17 STATEWIDE RETIREMENT PLAN SHALL BE HELD IN TRUST AS PART OF THE
18 DEFINED BENEFIT SYSTEM TRUST FUND.

19 (b) THERE IS HEREBY ESTABLISHED IN THE DEFINED BENEFIT
20 SYSTEM TRUST FUND, A LIFETIME BENEFITS ACCOUNT INTO WHICH
21 CONTRIBUTIONS MADE PURSUANT TO SECTIONS 31-31.5-301, 31-31.5-302,
22 AND 31-31.5-303 MUST BE DEPOSITED. THE DEFINED BENEFITS OF THE
23 LIFETIME BENEFIT COMPONENTS, INCLUDING COST OF LIVING
24 ADJUSTMENTS PROVIDED BY THE PLAN PURSUANT TO PART 4 OF THIS
25 ARTICLE 31.5, TOGETHER WITH THE EXPENSES OF ADMINISTERING THE
26 LIFETIME BENEFIT COMPONENTS OF THE PLAN, SHALL BE PAID FROM THE
27 ACCOUNT. THE LIFETIME BENEFITS ACCOUNT SHALL BE INVESTED WITHIN

1 THE FIRE AND POLICE MEMBERS' BENEFIT INVESTMENT FUND.

2 (c) THERE IS ESTABLISHED IN THE DEFINED BENEFIT SYSTEM TRUST
3 FUND, A MONEY PURCHASE ACCOUNT INTO WHICH CONTRIBUTIONS MADE
4 PURSUANT TO SECTION 31-31.5-304 MUST BE DEPOSITED AND ASSIGNED TO
5 INDIVIDUAL ACCOUNTS AND ADMINISTERED PURSUANT TO PART 5 OF THIS
6 ARTICLE 31.5. THE BOARD MAY CREATE SUBACCOUNTS WITHIN THE
7 ACCOUNT TO ADEQUATELY TRACK THE VESTING AND THE SOURCE OF
8 MONEY DEPOSITED INTO THE ACCOUNT ON BEHALF OF EACH MEMBER. THE
9 MONEY PURCHASE COMPONENT ACCOUNT MUST BE INVESTED WITHIN THE
10 FIRE AND POLICE MEMBERS' SELF-DIRECTED INVESTMENT FUND.

11 (d) THE BOARD SHALL KEEP AN ACCURATE ACCOUNT OF THE
12 ASSETS AND LIABILITIES OF THE LIFETIME BENEFITS ACCOUNT AND THE
13 MONEY PURCHASE COMPONENT ACCOUNT.

14 (2) THE BOARD MAY ADOPT BY RULE SUCH MATTERS AS MAY BE
15 NECESSARY TO CODIFY THE BOARD'S INTERPRETATION, ADMINISTRATION,
16 AND MANAGEMENT OF THE STATEWIDE RETIREMENT PLAN.

17 (3) THE BOARD MAY PROVIDE FOR THE ADMINISTRATION OF
18 DOMESTIC RELATIONS ORDERS ISSUED PURSUANT TO ARTICLE 10 OF TITLE
19 14 WITH REGARD TO THE PLAN OR ITS PREDECESSOR PLANS.

20 PART 2

21 MEMBER PARTICIPATION

22 **31-31.5-201. Membership.** EXCEPT AS OTHERWISE PROVIDED IN
23 THIS ARTICLE 31.5 OR ARTICLE 31 OF THIS TITLE 31, A MEMBER WHOSE
24 EMPLOYER IS AFFILIATED WITH A COMPONENT OF THE STATEWIDE
25 RETIREMENT PLAN SHALL PARTICIPATE IN THE STATEWIDE RETIREMENT
26 PLAN ON THE FIRST DAY OF EMPLOYMENT IF THE EMPLOYER WITHHOLDS
27 MEMBER CONTRIBUTIONS ON BEHALF OF THE MEMBER AND THE

1 APPLICABLE FORMS ARE COMPLETED AND SUBMITTED TO THE
2 ASSOCIATION.

3 **31-31.5-202. Reentering and affiliating employers.**

4 (1) MEMBERS OF EMPLOYERS WHO REENTER OR AFFILIATE PURSUANT TO
5 PART 7 OR PART 11 OF ARTICLE 31 OF THIS TITLE 31 SHALL PARTICIPATE IN
6 THE STATEWIDE RETIREMENT PLAN BEGINNING ON THE EMPLOYER'S
7 EFFECTIVE DATE PURSUANT TO RULES ADOPTED BY THE BOARD.

8 (2) MEMBERS COVERED BY SUBSECTION (1) OF THIS SECTION MAY
9 ELECT A TRUSTEE-TO-TRUSTEE TRANSFER IN ORDER TO TRANSFER ASSETS
10 FROM THE PREDECESSOR MONEY PURCHASE PLAN TO THE MEMBER'S
11 INDIVIDUAL ACCOUNT ESTABLISHED PURSUANT TO PART 5 OF THIS ARTICLE
12 31.5.

13 (3) AN ACTIVE MEMBER WHO IS REQUIRED TO TRANSFER MONEY
14 PURCHASE ASSETS TO THE STATEWIDE RETIREMENT PLAN MAY ALSO ELECT
15 TO CONVERT THE VESTED PROCEEDS FROM THE PREDECESSOR MONEY
16 PURCHASE PLAN INTO SERVICE CREDIT TOWARDS THE ACCRUAL OF
17 BENEFITS UNDER THE LIFETIME BENEFIT COMPONENTS AS MAY BE
18 ALLOWED PURSUANT TO THE BOARD'S RULES.

19 **31-31.5-203. Department chief - exemption by written**

20 **agreement - definition.** (1) A DEPARTMENT CHIEF HIRED ON OR AFTER
21 APRIL 8, 1978, IS EXEMPT FROM THE STATEWIDE RETIREMENT PLAN UPON
22 THE EXECUTION OF A WRITTEN AGREEMENT BETWEEN THE DEPARTMENT
23 CHIEF AND THE CHIEF'S EMPLOYER THAT PROVIDES FOR THE DEPARTMENT
24 CHIEF'S PARTICIPATION IN SOCIAL SECURITY OR IN A FEDERAL INSURANCE
25 CONTRIBUTION ACT REPLACEMENT PLAN AS ALLOWED UNDER RULES
26 ESTABLISHED BY THE BOARD AND IN COMPLIANCE WITH THE FEDERAL
27 "INTERNAL REVENUE CODE OF 1986". A DEPARTMENT CHIEF MAY SATISFY

1 THE FEDERAL INSURANCE CONTRIBUTION ACT REPLACEMENT PLAN
2 REQUIREMENT BY PARTICIPATING IN AN EMPLOYER SPONSORED PLAN, THE
3 STATEWIDE MONEY PURCHASE PLAN, OR A COMPONENT OF THE STATEWIDE
4 RETIREMENT PLAN.

5 (2) AS USED IN THIS SECTION, "DEPARTMENT CHIEF" MEANS THE
6 SENIOR COMMAND OFFICER OF ANY FIRE OR POLICE DEPARTMENT OF ANY
7 EMPLOYER BY WHATEVER TITLE KNOWN INCLUDING BUT NOT LIMITED TO
8 CHIEF, ADMINISTRATOR, OR DIRECTOR.

9 (3) A DEPARTMENT CHIEF EXEMPTED PURSUANT TO SUBSECTION
10 (1) OF THIS SECTION MAY MAINTAIN COVERAGE FOR DISABILITY AND
11 SURVIVOR BENEFITS UNDER PART 8 OF THIS ARTICLE IF THE DEPARTMENT
12 CHIEF PARTICIPATES IN THE STATEWIDE MONEY PURCHASE PLAN, THE
13 STATEWIDE RETIREMENT PLAN, OR A LOCAL MONEY PURCHASE PLAN THAT
14 IS QUALIFIED UNDER SECTION 401(a) OF THE FEDERAL "INTERNAL
15 REVENUE CODE OF 1986" AND THAT HAS A CONTRIBUTION RATE OF NOT
16 LESS THAN EIGHTEEN PERCENT.

17 **31-31.5-204. Reemployment.** (1) AN INACTIVE MEMBER WHO IS
18 SUBSEQUENTLY REEMPLOYED SHALL PARTICIPATE IN THE PLAN IN THE
19 MANNER PRESCRIBED BY RULES ADOPTED BY THE BOARD.

20 (2) (a) THE BOARD SHALL ADOPT RULES REGARDING THE
21 TREATMENT OF A MEMBER WHO PARTICIPATES IN THE STATEWIDE
22 RETIREMENT PLAN, INCURS A BONA FIDE SEPARATION FROM SERVICE,
23 ELECTS A RETIREMENT, AND SUBSEQUENTLY RETURNS TO WORK WITH AN
24 EMPLOYER WHO PARTICIPATES IN THE STATEWIDE RETIREMENT PLAN IN
25 CONFORMANCE WITH THE FEDERAL INTERNAL REVENUE CODE OF 1986, AS
26 AMENDED.

27 (b) SUCH RULES MUST INDICATE:

1 (I) WHETHER THE MEMBER CONTINUES TO RECEIVE BENEFIT
2 DISTRIBUTIONS DURING THE REEMPLOYMENT OR WHETHER THE MEMBER'S
3 BENEFIT DISTRIBUTION CEASES DURING REEMPLOYMENT;

4 (II) WHETHER THE MEMBER EARNS ADDITIONAL SERVICE CREDIT
5 AS DETERMINED BY THE PLAN IN WHICH THE SUBSEQUENT EMPLOYER
6 PARTICIPATES OR WHETHER THE MEMBER EARNS ADDITIONAL RETIREMENT
7 BENEFITS BY PARTICIPATING IN AN ALTERNATE MONEY PURCHASE PLAN;
8 AND

9 (III) WHETHER THE BENEFIT DISTRIBUTION, IF CEASED DURING
10 REEMPLOYMENT, RESUMES WHEN THE MEMBER SUBSEQUENTLY
11 SEPARATES FROM SERVICE.

12 PART 3

13 CONTRIBUTIONS AND SERVICE CREDIT

14 **31-31.5-301. Defined benefit component minimum**
15 **contributions.** (1) EVERY MEMBER COVERED UNDER THE DEFINED
16 BENEFIT COMPONENT OF THE STATEWIDE RETIREMENT PLAN SHALL PAY
17 INTO THE LIFETIME BENEFITS ACCOUNT TWELVE PERCENT OF BASE SALARY
18 PAID OR ANY HIGHER MEMBER CONTRIBUTION RATE ESTABLISHED
19 PURSUANT TO PART 6 OF THIS ARTICLE 31.5. THE PAYMENT SHALL BE
20 MADE BY THE EMPLOYER BY DEDUCTION FROM THE SALARY PAID TO THE
21 MEMBER.

22 (2) (a) EVERY EMPLOYER EMPLOYING MEMBERS WHO ARE
23 COVERED BY THE DEFINED BENEFIT COMPONENT OF THE STATEWIDE
24 RETIREMENT PLAN SHALL PAY INTO THE LIFETIME BENEFITS ACCOUNT NINE
25 PERCENT OF THE BASE SALARY PAID TO THE MEMBER OR ANY HIGHER
26 EMPLOYER CONTRIBUTION RATE ESTABLISHED PURSUANT TO PART 6 OF
27 THIS ARTICLE 31.5. THE EMPLOYER CONTRIBUTION RATE SHALL INCREASE

1 BY THREE PERCENT TO BE IMPLEMENTED THROUGH SIX ANNUAL INCREASES
2 AS FOLLOWS: BEGINNING IN 2023, AND EACH YEAR THEREAFTER THROUGH
3 2028, THE EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY AN
4 ADDITIONAL ONE-HALF OF ONE PERCENT OF BASE SALARY UNTIL THE
5 TOTAL EMPLOYER CONTRIBUTION RATE, INCLUDING THE CUMULATIVE
6 CONTRIBUTION RATE INCREASES, IS TWELVE PERCENT OF BASE SALARY.

7 (b) IN ADDITION TO THE RATE ESTABLISHED IN SUBSECTION (2)(a)
8 OF THIS SECTION, THE EMPLOYER CONTRIBUTION RATE SHALL BE
9 INCREASED BY ONE PERCENT OF BASE SALARY TO BE IMPLEMENTED AS
10 FOLLOWS: BEGINNING IN 2029, AND CONTINUING THROUGH 2030, THE
11 EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY AN ADDITIONAL
12 ONE-HALF OF ONE PERCENT OF BASE SALARY IN EACH YEAR FOR A TOTAL
13 OF A ONE PERCENT INCREASE IN ORDER TO PAY FOR THE COST OF
14 PROVIDING THE OPTION TO RETIRE CONTAINED IN SECTION 31-31.5-401
15 (2)(b).

16 (3) AFTER CONSIDERING THE RESULTS OF THE ACTUARIAL
17 VALUATION CONDUCTED PURSUANT TO SECTION 31-31.5-402, IF THE
18 ASSETS OF THE LIFETIME BENEFIT COMPONENTS OF THE PLAN COMBINED
19 WITH PROJECTED CONTRIBUTIONS ARE SUFFICIENT TO FULLY FUND THE
20 BENEFITS PROVIDED FOR IN PART 4 OF THIS ARTICLE 31.5 ON AN
21 ACTUARIALLY SOUND BASIS PLUS THE PROJECTED COST OF LIVING
22 ADJUSTMENTS AS DETERMINED BY THE BOARD, THE BOARD MAY, IN ITS
23 SOLE DISCRETION, ALLOCATE SURPLUS CONTRIBUTIONS TO THE MONEY
24 PURCHASE COMPONENT PURSUANT TO SECTION 31-31.5-304. THE BOARD
25 SHALL DESIGNATE WHETHER ANY SUCH ALLOCATION IS AN EMPLOYER
26 CONTRIBUTION OR A MEMBER CONTRIBUTION.

27 **31-31.5-302. Social security component minimum**

1 **contributions.** (1) THIS COMPONENT COVERS THE MEMBERS OF THOSE
2 EMPLOYERS THAT HAVE ELECTED COVERAGE UNDER THE PLAN PURSUANT
3 TO SECTION 31-31-704.5.

4 (2) EACH MEMBER SHALL MAKE CONTRIBUTIONS AT ONE-HALF OF
5 THE MEMBER CONTRIBUTION RATE ESTABLISHED FOR THE DEFINED
6 BENEFIT COMPONENT IN SECTION 31-31.5-301 BY DEDUCTION FROM THE
7 SALARY PAID TO THE MEMBER. FOR EACH MEMBER, THE EMPLOYER SHALL
8 PAY ONE-HALF OF THE EMPLOYER CONTRIBUTION RATE ESTABLISHED FOR
9 THE DEFINED BENEFIT COMPONENT IN SECTION 31-31.5-301 INCLUDING
10 ANY ALLOCATION MADE TO THE MONEY PURCHASE COMPONENT MADE
11 PURSUANT TO SECTION 31-31.5-301 (3).

12 **31-31.5-303. Hybrid component minimum contributions.**

13 (1) EVERY EMPLOYER SHALL CONTRIBUTE TO THE LIFETIME BENEFITS
14 ACCOUNT EIGHT PERCENT OF THE BASE SALARY OF THE MEMBER. THE
15 EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY ONE PERCENT OF
16 BASE SALARY TO BE IMPLEMENTED THROUGH EIGHT ANNUAL INCREASES
17 AS FOLLOWS: BEGINNING IN 2023, AND EACH YEAR THEREAFTER THROUGH
18 2030, THE EMPLOYER CONTRIBUTION RATE SHALL INCREASE BY AN
19 ADDITIONAL ONE-EIGHTH OF ONE PERCENT OF BASE SALARY UNTIL THE
20 TOTAL EMPLOYER CONTRIBUTION RATE, INCLUDING THE CUMULATIVE
21 CONTRIBUTION RATE INCREASES, IS NINE PERCENT OF BASE SALARY.

22 (2) EVERY MEMBER SHALL CONTRIBUTE TO THE LIFETIME BENEFITS
23 ACCOUNT EIGHT PERCENT OF THE BASE SALARY OF THE MEMBER. THE
24 MEMBER CONTRIBUTION RATE SHALL INCREASE BY ONE PERCENT OF BASE
25 SALARY TO BE IMPLEMENTED THROUGH EIGHT ANNUAL INCREASES AS
26 FOLLOWS: BEGINNING IN 2023, AND EACH YEAR THEREAFTER THROUGH
27 2030, THE MEMBER CONTRIBUTION RATE SHALL INCREASE BY AN

1 ADDITIONAL ONE-EIGHTH OF ONE PERCENT OF BASE SALARY UNTIL THE
2 TOTAL MEMBER CONTRIBUTION RATE, INCLUDING THE CUMULATIVE
3 CONTRIBUTION RATE INCREASES, IS NINE PERCENT OF BASE SALARY. THE
4 PAYMENT SHALL BE MADE BY THE EMPLOYER BY DEDUCTION FROM THE
5 SALARY PAID TO THE MEMBER.

6 (3) THE COMBINED MANDATORY CONTRIBUTIONS SHALL BE
7 ALLOCATED BETWEEN THE HYBRID COMPONENT AND THE MONEY
8 PURCHASE COMPONENT AS DETERMINED ANNUALLY BY THE BOARD BASED
9 ON THE AMOUNT REQUIRED TO FUND THE BENEFIT PROVIDED UNDER THE
10 HYBRID COMPONENT.

11 **31-31.5-304. Money purchase component contributions.**

12 (1) FOR MEMBERS WHO ELECTED THE MONEY PURCHASE ONLY OPTION
13 UPON REENTRY INTO A PREDECESSOR PLAN, THE CONTRIBUTION RATE FOR
14 EMPLOYERS AND MEMBERS IS EQUAL TO THE CONTRIBUTION RATES
15 ESTABLISHED IN THE PREDECESSOR PLAN.

16 (2) CONTRIBUTIONS, INCLUDING SEPARATE RETIREMENT ACCOUNT
17 BALANCES FROM THE PREDECESSOR STATEWIDE DEFINED BENEFIT PLAN
18 ESTABLISHED UNDER PART 4 OF ARTICLE 31 OF THIS TITLE 31, TRANSFERS
19 FROM THE PREDECESSOR STATEWIDE HYBRID PLAN MONEY PURCHASE
20 ACCOUNTS, SURPLUS CONTRIBUTIONS ALLOCATED FROM THE DEFINED
21 BENEFIT COMPONENT CONTRIBUTIONS PURSUANT TO SECTION 31-31.5-301
22 (3), THE PORTION OF THE MINIMUM CONTRIBUTIONS OF HYBRID
23 COMPONENT ALLOCATED TO THE MONEY PURCHASE COMPONENT
24 PURSUANT TO SECTION 31-31.5-303 (3), INCREASED LOCAL MANDATORY
25 CONTRIBUTIONS PURSUANT TO SECTION 31-31.5-307, AND INCREASED
26 LOCAL VOLUNTARY CONTRIBUTIONS PURSUANT TO SECTION 31-31.5-308
27 MUST BE DEPOSITED IN THE MONEY PURCHASE COMPONENT.

1 (3) THE BOARD MAY PROVIDE THROUGH RULES FOR ROLLOVERS OR
2 TRANSFER OF FUNDS FROM OTHER PLANS TO BE DEPOSITED IN THE MONEY
3 PURCHASE COMPONENT SUBJECT TO REQUIREMENTS AND LIMITS
4 ESTABLISHED BY THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
5 AMENDED.

6 **31-31.5-305. Continuing rates of contribution for reentry and**
7 **affiliating departments.** (1) AT THE TIME OF REENTRY OR AFFILIATION,
8 THE BOARD MAY ESTABLISH A CONTINUING RATE OF CONTRIBUTION FOR
9 DEPARTMENTS REENTERING OR AFFILIATING WITH THE STATEWIDE
10 RETIREMENT PLAN IN ADDITION TO THE EMPLOYER AND MEMBER
11 CONTRIBUTIONS OTHERWISE REQUIRED BY THIS PART 3 IN ORDER TO
12 MAINTAIN THE ACTUARIAL SOUNDNESS OF THE PLAN AND THE PLAN FOR
13 DISABILITY AND SURVIVORS BENEFITS PROVIDED FOR IN PART 8 OF ARTICLE
14 31 OF THIS TITLE 31.

15 (2) IT SHALL BE LOCALLY DECIDED DURING THE AFFILIATION
16 PROCESS WHETHER THE CONTINUING RATE OF CONTRIBUTION SHALL BE
17 MADE BY THE MEMBER OR THE EMPLOYER OR SPLIT EQUALLY BETWEEN
18 THE MEMBER AND THE EMPLOYER.

19 **31-31.5-306. Picked-up contributions.** EACH EMPLOYER SHALL
20 PICK UP THE MANDATORY EMPLOYEE CONTRIBUTIONS REQUIRED UNDER
21 THIS PART 3, TO THE EXTENT ALLOWED BY THE FEDERAL "INTERNAL
22 REVENUE CODE OF 1986", AS AMENDED, AND THE CONTRIBUTIONS PICKED
23 UP SHALL BE TREATED AS EMPLOYER CONTRIBUTIONS PURSUANT TO
24 SECTION 414(h)(2) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986",
25 AS AMENDED, IN DETERMINING THEIR INCOME TAX TREATMENT. THE
26 EMPLOYER SHALL PAY THESE EMPLOYEE CONTRIBUTIONS DIRECTLY TO THE
27 ASSOCIATION, INSTEAD OF PAYING SUCH AMOUNTS TO THE MEMBERS.

1 SUCH CONTRIBUTIONS SHALL BE PAID FROM THE SAME FUNDS THAT ARE
2 USED IN PAYING SALARIES TO THE MEMBERS. SUCH CONTRIBUTIONS,
3 ALTHOUGH DESIGNATED AS EMPLOYEE CONTRIBUTIONS, SHALL BE PAID BY
4 THE EMPLOYER IN LIEU OF CONTRIBUTIONS BY THE MEMBERS. MEMBERS
5 MAY NOT ELECT TO CHOOSE TO RECEIVE SUCH CONTRIBUTIONS DIRECTLY
6 INSTEAD OF HAVING THEM PAID BY THE EMPLOYER TO THE PLAN.
7 EMPLOYEE CONTRIBUTIONS SO PICKED UP SHALL BE TREATED FOR ALL
8 PURPOSES OF THIS ARTICLE 31.5, OTHER THAN FEDERAL TAX, IN THE SAME
9 MANNER AS EMPLOYEE CONTRIBUTIONS MADE BEFORE THE DATE PICKED
10 UP.

11 **31-31.5-307. Increased local mandatory contribution**
12 **requirements.** (1) AN EMPLOYER OR ACTIVE MEMBER OR BOTH MAY BE
13 REQUIRED TO PAY A MANDATORY CONTRIBUTION RATE IN EXCESS OF THE
14 RATE ESTABLISHED IN SECTION 31-31.5-301, 31-31.5-302, OR 31-31.5-303
15 UPON ENACTMENT BY THE EMPLOYER OF A RESOLUTION OR ORDINANCE
16 SETTING FORTH THE HIGHER CONTRIBUTION RATE AND APPROVAL OF THE
17 HIGHER RATE BY AT LEAST SIXTY-FIVE PERCENT OF THE EMPLOYER'S
18 ACTIVE MEMBERS VOTING FOR THE HIGHER CONTRIBUTION RATE.

19 (2) AN EMPLOYEE WHO HAS PREVIOUSLY ESTABLISHED A
20 MANDATORY CONTRIBUTION RATE UNDER A LOCAL MONEY PURCHASE
21 PLAN IN EXCESS OF THE MANDATORY CONTRIBUTION RATE MAY CONTINUE
22 THE PREVIOUS CONTRIBUTION RATE AS AN INCREASED CONTRIBUTION
23 RATE.

24 (3) UPON ADOPTION OF A RESOLUTION OR ORDINANCE, AND
25 APPROVAL OF AT LEAST SIXTY-FIVE PERCENT OF THE EMPLOYER'S ACTIVE
26 MEMBERS VOTING, A MANDATORY CONTRIBUTION RATE IN EXCESS OF THE
27 MINIMUM REQUIRED CONTRIBUTION RATE MAY BE REDUCED TO THE

1 MINIMUM REQUIRED CONTRIBUTION RATE OR THE EXCESS ABOVE THE
2 MINIMUM REQUIRED CONTRIBUTION RATE MAY BE REDIRECTED TO
3 ANOTHER AVAILABLE EMPLOYEE BENEFIT.

4 **31-31.5-308. Increased local voluntary contribution**
5 **requirements.** (1) ACTIVE MEMBERS MAY MAKE ADDITIONAL AFTER-TAX
6 CONTRIBUTIONS TO THE MONEY PURCHASE COMPONENT ACCOUNT UNDER
7 PART 5 OF THIS ARTICLE 31.5. VOLUNTARY MEMBER CONTRIBUTIONS ARE
8 NOT SUBJECT TO THE EMPLOYER PICK-UP PROVISIONS OF SECTION
9 414(h)(2) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS
10 AMENDED.

11 (2) EMPLOYERS MAY MAKE ADDITIONAL CONTRIBUTIONS TO THE
12 MONEY PURCHASE COMPONENT ACCOUNT UNDER PART 5 OF THIS ARTICLE
13 31.5 ON BEHALF OF MEMBERS. EMPLOYER VOLUNTARY CONTRIBUTIONS
14 VEST ON THE SCHEDULE ESTABLISHED IN SECTION 31-31.5-501.

15 **31-31.5-309. Remittance of contributions to the association.**
16 (1) REMITTANCES OF CONTRIBUTIONS ARE DUE NO LATER THAN TEN DAYS
17 FOLLOWING THE DATE OF PAYMENT OF SALARY TO A MEMBER. ALL
18 REMITTANCES OF CONTRIBUTIONS MUST BE CREDITED TO THE DEFINED
19 BENEFIT SYSTEM TRUST FUND.

20 (2) THE PAYMENTS REQUIRED BY THIS SECTION ARE SUBJECT TO
21 INTEREST AS ESTABLISHED BY THE BOARD IF NOT SUBMITTED WHEN DUE.

22 **31-31.5-310. Service credit purchases.** MEMBERS PARTICIPATING
23 IN THE LIFETIME BENEFIT COMPONENTS MAY PURCHASE, INCLUDING BY
24 ROLLOVER OR TRANSFER OF FUNDS, ADDITIONAL DEFINED BENEFIT
25 SERVICE CREDIT FOR OTHER PUBLIC EMPLOYMENT WITHIN THE UNITED
26 STATES NOT COVERED BY THE PLAN, UNITED STATES UNIFORMED
27 MILITARY SERVICE, OR UP TO FIVE YEARS OF PRIVATE EMPLOYMENT,

SUBJECT TO THE LIMITS ESTABLISHED BY THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND AS MAY BE ALLOWED UNDER THE RULES AND REGULATIONS ADOPTED BY THE BOARD.

PART 4

BENEFITS IN THE LIFETIME BENEFIT COMPONENTS

31-31.5-401. Vesting and benefit eligibility. (1) A MEMBER WITH FIVE YEARS OF SERVICE CREDIT IN ONE OR A COMBINATION OF MORE THAN ONE OF THE LIFETIME BENEFIT COMPONENTS IS CONSIDERED VESTED FOR PURPOSES OF A PENSION PAYABLE FROM THE LIFETIME BENEFIT COMPONENTS OF THE STATEWIDE RETIREMENT PLAN.

(2) A MEMBER IS ELIGIBLE FOR A NORMAL RETIREMENT WHEN:

(a) THE MEMBER HAS ACCUMULATED AT LEAST TWENTY-FIVE YEARS OF SERVICE CREDIT AND HAS ATTAINED AGE FIFTY-FIVE; OR

(b) THE MEMBER HAS ATTAINED AGE FIFTY, THE MEMBER'S COMBINED AGE AND YEARS OF ACCRUED SERVICE IS EQUAL TO AT LEAST EIGHTY, AND THE MEMBER IS NOT RECEIVING BENEFITS PURSUANT TO SECTION 31-31-803.

(3) A VESTED MEMBER WHO ATTAINS AGE FIFTY-FIVE IS ELIGIBLE TO TERMINATE SERVICE AND BEGIN RECEIVING AN UNREDUCED BENEFIT. A MEMBER WHO TERMINATES EMPLOYMENT BEFORE ATTAINING AGE FIFTY-FIVE AND WHO HAS AT LEAST FIVE YEARS OF SERVICE CREDIT MAY LEAVE CONTRIBUTIONS IN THE PLAN AND BEGIN RECEIVING AN UNREDUCED BENEFIT UPON ATTAINING AGE FIFTY-FIVE.

(4) AN ACTIVE OR INACTIVE VESTED MEMBER WHO IS NOT ELIGIBLE FOR NORMAL RETIREMENT, WHO HAS ATTAINED AGE FIFTY, WHO IS NOT RECEIVING OR HAS TERMINATED BENEFITS PURSUANT TO SECTION 31-31-803, AND WHO HAS TERMINATED EMPLOYMENT IS ELIGIBLE FOR AN

1 EARLY RETIREMENT PENSION. THE EARLY RETIREMENT PENSION FOR A
2 MEMBER IS THE BENEFIT THAT THE MEMBER WOULD HAVE RECEIVED AT
3 AGE FIFTY-FIVE REDUCED ON AN ACTUARIAL EQUIVALENT BASIS TO
4 REFLECT THE EARLY RECEIPT OF THE BENEFIT AS DETERMINED BY THE
5 BOARD.

6 (5) SUBJECT TO RULES ADOPTED BY THE BOARD, YEARS OF SERVICE
7 CREDIT OF A MEMBER WHO IS EMPLOYED BY SUCCESSIVE EMPLOYERS MAY
8 BE AGGREGATED FOR DETERMINING ELIGIBILITY AND BENEFITS PROVIDED
9 BY THE LIFETIME BENEFIT COMPONENTS OF THE STATEWIDE RETIREMENT
10 PLAN IF THE SERVICE FOR EACH EMPLOYER WAS RENDERED WHILE THE
11 EMPLOYER COVERED ITS MEMBERS UNDER THE STATEWIDE RETIREMENT
12 PLAN, THE PREDECESSOR STATEWIDE DEFINED BENEFIT PLAN, OR THE
13 DEFINED BENEFIT COMPONENT OF THE PREDECESSOR STATEWIDE HYBRID
14 PLAN.

15 **31-31.5-402. Plan funding, actuarial valuation and**
16 **adjustments to maintain the actuarial soundness of the plan.** (1) THE
17 GENERAL ASSEMBLY DECLARES THAT THE RATES OF MEMBER AND
18 EMPLOYER CONTRIBUTIONS MUST BE ADEQUATE TO FUND BENEFIT
19 LIABILITIES ACCRUED UNDER THE STATEWIDE RETIREMENT PLAN
20 ESTABLISHED BY THIS ARTICLE 31.5.

21 (2) (a) THE BOARD SHALL CONDUCT AN ANNUAL ACTUARIAL
22 VALUATION OF THE STATEWIDE RETIREMENT PLAN AND SHALL DETERMINE
23 THE COST OF ALL BENEFITS OF THE LIFETIME BENEFIT COMPONENTS, WHICH
24 MAY INCLUDE PROJECTED COST OF LIVING ADJUSTMENTS FOR EACH OF THE
25 LIFETIME BENEFIT COMPONENTS. THE BOARD SHALL SUBMIT AN ANNUAL
26 ACTUARIAL VALUATION REPORT TO THE STATE AUDITOR, THE PENSION
27 REVIEW COMMITTEE, THE LEGISLATIVE AUDIT COMMITTEE, AND THE JOINT

1 BUDGET COMMITTEE OF THE GENERAL ASSEMBLY, TOGETHER WITH ANY
2 RECOMMENDATIONS CONCERNING SUCH LIABILITIES AS ACCRUED.
3 AMORTIZATION OF LIABILITY OVER A FORTY-YEAR PERIOD SHALL BE
4 DEEMED ADEQUATE TO MAINTAIN ACTUARIAL STABILITY.

5 (b) THE BOARD SHALL PERIODICALLY CONDUCT A REVIEW AND
6 STUDY OF THE ACTUAL EXPERIENCE OF THE ASSETS AND LIABILITIES OF
7 THE LIFETIME BENEFIT COMPONENTS OF THE STATEWIDE RETIREMENT
8 PLAN. THE BOARD SHALL ADJUST THE ASSUMPTIONS MADE WITH REGARD
9 TO EACH COMPONENT AS A RESULT OF THE REVIEW AND STUDY.

10 (3) THE BOARD SHALL DETERMINE AFTER EACH ANNUAL
11 ACTUARIAL VALUATION IF THE COST OF ALL BENEFITS ESTABLISHED BY
12 THIS PART 4 AND THE COST OF A NORMAL RETIREMENT PENSION BEGINNING
13 AT AGE FIFTY-FIVE FOR MEMBERS THEN ELIGIBLE MAY BE FULLY FUNDED
14 ON AN ACTUARIALLY SOUND BASIS NOT INCLUDING FUTURE PROJECTED
15 COST OF LIVING ADJUSTMENTS WITHOUT NECESSITATING AN INCREASE IN
16 THE EMPLOYER AND MEMBER CONTRIBUTIONS MADE PURSUANT TO
17 SUBSECTION (5) OF THIS SECTION.

18 (4) IF IN ANY YEAR THE BOARD DETERMINES PURSUANT TO
19 SUBSECTION (2) OF THIS SECTION THAT THE COST OF THE BENEFITS
20 DESCRIBED IN PART 5 MAY NOT BE FULLY FUNDED ON AN ACTUARIALLY
21 SOUND BASIS, THE BOARD, IN ITS DISCRETION, MAY TAKE THE FOLLOWING
22 ACTIONS SINGULARLY OR IN ANY COMBINATION AND IN ANY ORDER:

23 (a) THE BOARD MAY TERMINATE ALLOCATING SURPLUS
24 CONTRIBUTIONS TO THE MONEY PURCHASE COMPONENT PURSUANT TO
25 SECTION 31-31.5-301 (3);

26 (b) THE BOARD MAY TERMINATE MAKING COST OF LIVING
27 ADJUSTMENTS PURSUANT TO SECTION 31-31.5-410;

1 (c) (I) THE BOARD MAY ORDER THAT THE NORMAL RETIREMENT
2 PENSION COMMENCE SUCH NUMBER OF MONTHS AS ARE ACTUARIALLY
3 SUPPORTABLE, FROM ONE TO SIXTY, AFTER AGE FIFTY-FIVE FOR MEMBERS
4 WHO ARE OTHERWISE ELIGIBLE PURSUANT TO SECTION 31-31.5-401 (2)(a).
5 IF THE BOARD ADJUSTS THE AGE OF ELIGIBILITY PURSUANT TO THIS
6 SUBSECTION (4)(c)(I), IT SHALL ALSO ADJUST THE AGE OF ELIGIBILITY FOR
7 BENEFITS UNDER SECTION 31-31.5-401 (2)(b), (3), AND (4) IN A LIKE
8 MANNER. THE DETERMINATION OF THE BOARD IS CONCLUSIVE ABSENT
9 FRAUD.

10 (II) A PENSION COMMENCED BEFORE ANY ADJUSTMENT IN THE AGE
11 OF ELIGIBILITY PURSUANT TO SUBSECTION (4)(c)(I) OF THIS SECTION IS NOT
12 SUBJECT TO REVIEW. IF A COURT DETERMINES THAT THIS SUBSECTION (4)
13 IS INVALID, THE AGE OF RETIREMENT TO BE ELIGIBLE FOR ANY NORMAL
14 RETIREMENT BENEFIT SHALL BE AGE SIXTY EXCEPT FOR PERSONS
15 RECEIVING A BENEFIT AT THE TIME OF THE COURT'S DECISION.

16 (d) THE BOARD MAY PROSPECTIVELY ORDER THAT THE BENEFIT
17 MULTIPLIER USED IN SECTION 31-31.5-403 (1)(b) BE REDUCED FROM TWO
18 AND ONE-HALF PERCENT TO AS LOW AS TWO PERCENT FOR ANY GIVEN
19 YEAR OR YEARS;

20 (e) THE BOARD MAY SUSPEND FURTHER IMPLEMENTATION OR
21 PARTICIPATION IN ANY PLAN AMENDMENT ADOPTED PURSUANT TO PART
22 6 OF THIS ARTICLE 31.5 THAT CONTRIBUTES ADDITIONAL COST TO THE
23 PLAN;

24 (f) THE BOARD MAY SUSPEND FURTHER PARTICIPATION IN THE
25 DEFERRED RETIREMENT OPTION PLAN PURSUANT TO SECTION 31-31.5-409
26 IF IT DETERMINES THAT THE OPTION CONTRIBUTES ADDITIONAL COST TO
27 THE STATEWIDE RETIREMENT PLAN; AND

1 (g) THE BOARD MAY REINSTATE ANY BENEFITS TERMINATED,
2 ADJUSTED, OR SUSPENDED PURSUANT TO THIS SECTION IF IT DETERMINES
3 THAT THE ACTION TAKEN IS NO LONGER NECESSARY TO MAINTAIN THE
4 ACTUARIAL SOUNDNESS OF THE LIFETIME BENEFIT COMPONENTS. THIS MAY
5 INCLUDE, BUT IS NOT LIMITED TO, RETROACTIVE REINSTATEMENT OF THE
6 BENEFIT MULTIPLIER REDUCED UNDER SUBSECTION (4)(d) OF THIS
7 SECTION.

8 (5) (a) IF THE ACTUAL FINANCIAL EXPERIENCE OF THE LIFETIME
9 BENEFITS ACCOUNT IS FOUND TO BE MORE OR LESS FAVORABLE THAN THE
10 ASSUMED EXPERIENCE DURING THE PREVIOUS PERIOD, ADJUSTMENTS MAY
11 BE MADE BY THE BOARD IN THE MEMBER AND EMPLOYER CONTRIBUTIONS
12 AS MAY BE DEEMED FEASIBLE AND ADVISABLE SO LONG AS THE EMPLOYER
13 CONTRIBUTION RATE ADJUSTMENT IS EQUAL TO THE MEMBER
14 CONTRIBUTION RATE ADJUSTMENT.

15 (b) THE BOARD SHALL NOT INCREASE EMPLOYER OR MEMBER
16 CONTRIBUTIONS PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION UNLESS
17 IT HAS TAKEN THE ACTIONS PERMITTED UNDER SUBSECTIONS (4)(a) TO
18 (4)(f) OF THIS SECTION AND IT FINDS THAT THE INCREASE IS NECESSARY TO
19 MAINTAIN THE ACTUARIAL SOUNDNESS OF THE PLAN.

20 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE
21 THE REDUCTION OF BENEFITS BELOW THE LEVEL SUSTAINABLE BY THE
22 HIGHER MEMBER OR EMPLOYER CONTRIBUTION RATES ESTABLISHED
23 PURSUANT TO SECTION 31-31.5-601.

24 **31-31.5-403. Defined benefit component benefits.** (1) IN
25 CALCULATING THE RETIREMENT PENSION FOR A MEMBER WHO HAS
26 SERVICE CREDIT IN THE DEFINED BENEFIT COMPONENT, THE BENEFIT IS THE
27 SUM OF THE FOLLOWING:

1 (a) TWO PERCENT MULTIPLIED BY THE SERVICE CREDIT EARNED OR
2 PURCHASED IN THE DEFINED BENEFIT COMPONENT, NOT TO EXCEED TEN
3 YEARS OF SERVICE CREDIT, MULTIPLIED BY THE AVERAGE OF THE
4 MEMBER'S HIGHEST THREE YEARS' BASE SALARY IN THE DEFINED BENEFIT
5 COMPONENT; PLUS

6 (b) TWO AND ONE-HALF PERCENT MULTIPLIED BY THE SERVICE
7 CREDIT EARNED OR PURCHASED IN THE DEFINED BENEFIT COMPONENT IN
8 EXCESS OF TEN YEARS MULTIPLIED BY THE AVERAGE OF THE MEMBER'S
9 HIGHEST THREE YEARS' BASE SALARY IN THE DEFINED BENEFIT
10 COMPONENT.

11 **31-31.5-404. Social security component benefits.** (1) IN
12 CALCULATING THE RETIREMENT PENSION FOR A MEMBER WHO HAS
13 SERVICE CREDIT IN THE SOCIAL SECURITY COMPONENT, THE BENEFIT IS THE
14 SUM OF THE FOLLOWING:

15 (a) ONE PERCENT MULTIPLIED BY THE YEARS OF SERVICE CREDIT
16 IN THE SOCIAL SECURITY COMPONENT, NOT TO EXCEED TEN YEARS OF
17 SERVICE CREDIT, MULTIPLIED BY THE AVERAGE OF THE MEMBER'S HIGHEST
18 THREE YEARS' BASE SALARY IN THE SOCIAL SECURITY COMPONENT; PLUS

19 (b) ONE AND ONE-QUARTER PERCENT MULTIPLIED BY THE YEARS
20 OF SERVICE CREDIT IN THE SOCIAL SECURITY COMPONENT IN EXCESS OF
21 TEN YEARS MULTIPLIED BY THE AVERAGE OF THE MEMBER'S HIGHEST
22 THREE YEARS' BASE SALARY IN THE SOCIAL SECURITY COMPONENT.

23 **31-31.5-405. Hybrid component benefits.** (1) IN CALCULATING
24 THE NORMAL RETIREMENT PENSION FOR A MEMBER WHO HAS YEARS OF
25 SERVICE CREDIT IN THE HYBRID COMPONENT, THE BENEFIT SHALL BE:

26 (a) A MULTIPLIER, WHICH THE BOARD SHALL ESTABLISH BY
27 ADJUSTING THE FUNDING STATUS OF THE PREDECESSOR STATEWIDE

1 HYBRID PLAN TO EQUAL THE FUNDING STATUS OF THE PREDECESSOR
2 STATEWIDE DEFINED BENEFIT PLAN USING VALUATIONS AS OF DECEMBER
3 31, 2021, AND BASED ON THE RECOMMENDATIONS MADE BY THE PLAN'S
4 ACTUARY, MULTIPLIED BY THE YEARS OF SERVICE CREDIT EARNED OR
5 PURCHASED IN THE STATEWIDE HYBRID PLAN PRIOR TO JANUARY 1, 2023,
6 MULTIPLIED BY THE AVERAGE OF THE MEMBER'S HIGHEST THREE YEARS'
7 BASE SALARY; PLUS

8 (b) ONE AND ONE-HALF PERCENT MULTIPLIED BY THE YEARS OF
9 SERVICE CREDIT EARNED OR PURCHASED IN THE HYBRID COMPONENT ON
10 OR AFTER JANUARY 1, 2023, MULTIPLIED BY THE AVERAGE OF THE
11 MEMBER'S HIGHEST THREE YEARS' BASE SALARY.

12 **31-31.5-406. Optional survivor benefits.** (1) A MEMBER
13 ELIGIBLE FOR A NORMAL, LATE, OR EARLY RETIREMENT PENSION MAY
14 ELECT TO RECEIVE A REDUCED PENSION PAYABLE TO THE MEMBER AND,
15 UPON THE MEMBER'S DEATH A REDUCED BENEFIT TO THE MEMBER'S
16 DESIGNATED BENEFICIARY. THE BOARD SHALL ESTABLISH SUCH OPTIONS
17 BY RULE IN A MANNER THAT PROVIDES FOR AN ACTUARIAL EQUIVALENT
18 BENEFIT OF THE NORMAL OR EARLY RETIREMENT PENSION OTHERWISE
19 PAYABLE.

20 (2) IF A MEMBER REACHES AGE ELIGIBILITY FOR A NORMAL,
21 VESTED, OR EARLY RETIREMENT PENSION, AND DIES BEFORE MAKING AN
22 ELECTION ALLOWED PURSUANT TO SUBSECTION (1) OF THIS SECTION OR
23 BEFORE THE FIRST PENSION PAYMENT HAS BEEN DEPOSITED, AND IS
24 SURVIVED BY A SPOUSE, DEPENDENT CHILD, OR DESIGNATED BENEFICIARY,
25 THE MEMBER SHALL BE CONSIDERED TO HAVE ELECTED AN ACTUARIALLY
26 REDUCED PENSION AND RETIRED ON THE DAY BEFORE THE MEMBER'S
27 DEATH. PAYABLE TO THE MEMBERS SPOUSE, DEPENDENT CHILD, OR

1 DESIGNATED BENEFICIARY, SUCH REDUCED PENSION SHALL BE PAYABLE
2 TO THE MEMBER'S DESIGNATED BENEFICIARY. A SPOUSE, DEPENDENT
3 CHILD, OR DESIGNATED BENEFICIARY OF A MEMBER WHO HAS NOT YET
4 REACHED AGE ELIGIBILITY MAY ELECT TO RECEIVE AN ACTUARIALLY
5 REDUCED BENEFIT BEGINNING ON THE DATE THAT THE MEMBER WOULD
6 HAVE REACHED AGE ELIGIBILITY IN LIEU OF A DEATH BENEFIT UNDER PART
7 8 OF ARTICLE 31 AND IN LIEU OF A REFUND OF MEMBER CONTRIBUTIONS
8 PURSUANT TO SECTION 31-31.5-411.

9 **31-31.5-407. Minimum benefit.** (1) IF THE TOTAL AMOUNT OF
10 PENSION BENEFITS PAID UNDER THE LIFETIME BENEFIT COMPONENT AS
11 PROVIDED IN THIS ARTICLE 31.5 AT THE TIME OF DEATH IS LESS THAN THE
12 AMOUNT OF THE MEMBERS' CONTRIBUTIONS TO THE LIFETIME BENEFIT
13 COMPONENT, THE DIFFERENCE SHALL BE PAID TO:

14 (a) THE MEMBER'S ESTATE, IF NO PENSION PAYMENT WAS MADE
15 PURSUANT TO AN OPTION UNDER SECTION 31-31.5-406; OR

16 (b) THE SURVIVOR'S ESTATE, IF PENSION PAYMENTS WERE MADE
17 PURSUANT TO AN OPTION UNDER SECTION 31-31.5-406.

18 **31-31.5-408. Late retirement.** (1) ANY MEMBER RETIRING AND
19 ELIGIBLE FOR A NORMAL OR VESTED RETIREMENT BENEFIT MAY ELECT TO
20 DEFER RECEIPT OF THE PENSION UNTIL ATTAINING AGE SIXTY-FIVE YEARS,
21 BUT NO LATER. IN THE CASE OF SUCH AN ELECTION, THE LATE RETIREMENT
22 PENSION IS THE ACTUARIAL EQUIVALENT OF THE NORMAL RETIREMENT
23 PENSION AS DETERMINED BY THE BOARD.

24 (2) THE BOARD MAY PROMULGATE RULES TO ALLOW MEMBERS
25 WHO ARE ELIGIBLE TO RECEIVE ANY TYPE OF RETIREMENT BENEFITS TO
26 DEFER RECEIPT OF THE BENEFITS TO THE EXTENT PERMITTED UNDER THE
27 FEDERAL "INTERNAL REVENUE CODE OF 1986" AS AMENDED, AND THE

1 REGULATIONS PROMULGATED PURSUANT TO SECTION 401(a)(9) OF SAID
2 CODE.

3 **31-31.5-409. Deferred retirement option plan (DROP).** THE
4 BOARD MAY ESTABLISH BY RULE A DEFERRED RETIREMENT OPTION PLAN
5 FOR VESTED MEMBERS WHO HAVE ATTAINED AGE FIFTY. THE PURPOSE OF
6 THE **DROP** IS TO ALLOW AN ELIGIBLE MEMBER TO ELECT, IN LIEU OF
7 IMMEDIATE TERMINATION OF EMPLOYMENT AND RECEIPT OF A LIFETIME
8 RETIREMENT BENEFIT, TO CONTINUE EMPLOYMENT FOR A SPECIFIED
9 PERIOD OF TIME OF UP TO FIVE YEARS AND TO HAVE THE MEMBER'S
10 OTHERWISE DEDUCTIBLE EMPLOYEE CONTRIBUTION AND RETIREMENT
11 BENEFITS PAID INTO THE MEMBER'S INDIVIDUAL ACCOUNT CREATED BY
12 SECTION 31-31.5-503 UNTIL THE END OF THE SPECIFIED PERIOD OF THE
13 MEMBER'S PARTICIPATION, AT WHICH TIME EMPLOYMENT CEASES.

14 **31-31.5-410. Cost of living adjustments - definitions.** (1) THE
15 BENEFITS PAYABLE UNDER THE LIFETIME BENEFIT COMPONENTS OF THE
16 PLAN MAY BE REDETERMINED EFFECTIVE OCTOBER 1 EACH YEAR. TO BE
17 ELIGIBLE FOR REDETERMINATION, THE BENEFITS MUST HAVE BEEN PAID
18 FOR AT LEAST TWELVE CALENDAR MONTHS PRIOR TO THE EFFECTIVE DATE
19 OF REDETERMINATION.

20 (2) (a) ANY REDETERMINATION OF BENEFITS MADE PURSUANT TO
21 SUBSECTION (1) OF THIS SECTION SHALL BE DETERMINED BY THE BOARD
22 IN ITS DISCRETION AS A FIDUCIARY OF THE STATEWIDE RETIREMENT PLAN
23 AFTER CONSIDERING THE FUNDING LEVEL OF THE LIFETIME BENEFIT
24 COMPONENTS, THE COST OF THE REDETERMINATION, THE COMPONENTS'
25 ABILITY TO FUND FUTURE BENEFITS, AND ANY OTHER FACTORS THAT THE
26 BOARD DEEMS APPROPRIATE. THE REDETERMINED BENEFITS SHALL NOT
27 EXCEED THE GREATER OF:

1 (I) ONE HUNDRED THREE PERCENT OF THE BENEFITS PAID FOR THE
2 PRIOR TWELVE-MONTH PERIOD; OR

3 (II) THE BENEFITS PAID DURING THE PRIOR TWELVE-MONTH PERIOD
4 MULTIPLIED BY A FRACTION USING THE CONSUMER PRICE INDEX FOR THE
5 IMMEDIATELY PRECEDING CALENDAR YEAR AS THE NUMERATOR AND THE
6 CONSUMER PRICE INDEX FOR THE CALENDAR YEAR PRIOR TO THE
7 IMMEDIATELY PRECEDING CALENDAR YEAR AS THE DENOMINATOR.

8 (b) AS USED IN THIS SECTION, "CONSUMER PRICE INDEX" MEANS
9 THE NATIONAL CONSUMER PRICE INDEX FOR URBAN WAGE EARNERS AND
10 CLERICAL WORKERS PREPARED BY THE UNITED STATES DEPARTMENT OF
11 LABOR.

12 **31-31.5-411. Refunds of member contributions.** (1) (a) ANY
13 MEMBER COVERED BY THE STATEWIDE RETIREMENT PLAN WHO
14 TERMINATES SERVICE MAY ELECT TO HAVE THE MEMBER'S ACCUMULATED
15 CONTRIBUTIONS TO ONE OR MORE LIFETIME BENEFIT COMPONENTS OF THE
16 PLAN REFUNDED TOGETHER WITH FIVE PERCENT OF THE MEMBER'S TOTAL
17 ACCUMULATED CONTRIBUTIONS AS INTEREST IN A LUMP SUM AND
18 THEREAFTER SHALL HAVE NO RIGHT TO LIFETIME BENEFITS PROVIDED BY
19 THE PLAN.

20 (b) IF THE MEMBER WHO TERMINATES SERVICE AND RECEIVES A
21 REFUND OF MEMBER CONTRIBUTIONS SUBSEQUENTLY RETURNS TO SERVICE
22 AS AN ACTIVE MEMBER WITH AN EMPLOYER THAT COVERS ITS MEMBERS
23 UNDER THE STATEWIDE RETIREMENT PLAN, THE MEMBER'S PRIOR SERVICE
24 CREDIT SHALL BE RESTORED WHEN THE MEMBER RETURNS THE MEMBER'S
25 REFUNDED CONTRIBUTIONS TO THE LIFETIME BENEFIT COMPONENTS, WITH
26 INTEREST ACCRUED FROM THE DATE OF REFUND TO THE DATE OF RETURN,
27 ACCORDING TO THE TERMS AND CONDITIONS ESTABLISHED BY THE BOARD.

1 IF THE MEMBER FAILS TO RETURN THE CONTRIBUTIONS AND INTEREST, THE
2 MEMBER SHALL BE TREATED AS A NEW MEMBER, AND THE MEMBER'S PRIOR
3 SERVICE SHALL NOT BE RECOGNIZED IN DETERMINING PENSION ELIGIBILITY
4 OR PENSION BENEFITS. THE RESTORATION OF A MEMBER'S SERVICE CREDIT
5 PURSUANT TO THIS SUBSECTION (1)(b) SHALL NOT ENTITLE THE MEMBER
6 TO REINSTATEMENT OF ANY PREVIOUSLY FORFEITED BALANCE IN THE
7 MEMBER'S MONEY PURCHASE COMPONENT ACCOUNT OR THE SEPARATE
8 RETIREMENT ACCOUNT.

9 (2) (a) IF A MEMBER DIES AFTER TERMINATION OF SERVICE, IS NOT
10 ELIGIBLE FOR A VESTED, NORMAL, OR EARLY RETIREMENT, AND HAS NOT
11 YET RECEIVED A REFUND OR BEGAN RECEIVING BENEFIT PAYMENTS, THE
12 ASSOCIATION SHALL REFUND THE MEMBER'S LIFETIME BENEFIT
13 COMPONENT CONTRIBUTIONS TO THE MEMBER'S DESIGNATED
14 BENEFICIARY, SURVIVING SPOUSE, OR DEPENDENT CHILDREN. WHERE
15 THERE IS NO DESIGNATED BENEFICIARY, SURVIVING SPOUSE, OR
16 DEPENDENT CHILDREN, THE REFUND SHALL BE MADE TO THE DECEASED
17 MEMBER'S ESTATE.

18 (b) IF A MEMBER WHO HAS NOT TERMINATED SERVICE DIES, AND
19 THERE IS NO SPOUSE OR DEPENDENTS ELIGIBLE FOR SURVIVOR BENEFITS
20 UNDER PART 8 OF ARTICLE 31 OF THIS TITLE 31, THE DECEASED MEMBER'S
21 LIFETIME BENEFIT COMPONENT CONTRIBUTIONS MAY BE REFUNDED TO:

22 (I) THE MEMBER'S DESIGNATED BENEFICIARY IF THE MEMBER IS
23 NOT ELIGIBLE FOR VESTED, EARLY, OR NORMAL RETIREMENT. THE
24 DESIGNATED BENEFICIARY MAY IN THE ALTERNATIVE ELECT A LIFETIME
25 BENEFIT PURSUANT TO SECTION 31-31.5-406.

26 (II) IF THERE IS NO DESIGNATED BENEFICIARY, THE MEMBER'S
27 ESTATE.

1 (a) IN THE EVENT OF PERMANENT OCCUPATIONAL OR TOTAL
2 DISABILITY RETIREMENT OR AN AWARD OF A SURVIVOR BENEFIT DUE TO A
3 DEATH OF AN ACTIVE MEMBER PURSUANT TO PART 8 OF ARTICLE 31 OF
4 THIS TITLE 31, A MEMBER SHALL BE ONE HUNDRED PERCENT VESTED IN
5 THE EMPLOYER CONTRIBUTIONS MADE TO THE MONEY PURCHASE
6 COMPONENT ACCOUNT.

7 (b) A MEMBER SHALL BE ONE HUNDRED PERCENT VESTED IN THE
8 EMPLOYER'S CONTRIBUTIONS MADE TO THE MONEY PURCHASE COMPONENT
9 ACCOUNT UPON ATTAINING NORMAL RETIREMENT AGE IF EMPLOYED BY
10 THE EMPLOYER ON OR AFTER THAT DATE.

11 (c) EXCEPT AS PROVIDED IN SUBSECTIONS (2)(a) AND (2)(b) OF
12 THIS SECTION, A MEMBER IS VESTED IN THE EMPLOYER CONTRIBUTIONS
13 MADE TO THE MONEY PURCHASE COMPONENT ACCOUNT IN THE AMOUNT
14 OF TWENTY PERCENT FOR EACH FULL YEAR OF SERVICE PERFORMED FOR A
15 COVERED DEPARTMENT. UPON ATTAINING FIVE FULL YEARS OF SERVICE,
16 A MEMBER IS ONE HUNDRED PERCENT VESTED. VESTING ALSO APPLIES TO
17 EMPLOYER CONTRIBUTIONS ALLOCATED PURSUANT TO SUBSECTION
18 31-31.5-301 (3) OR ALLOCATED UNDER THE PREDECESSOR STATEWIDE
19 DEFINED BENEFIT PLAN PURSUANT TO SECTION 31-31-405.

20 (3) UPON DISTRIBUTION, THE PORTION OF THE MEMBER'S
21 EMPLOYER CONTRIBUTIONS TO THE MONEY PURCHASE COMPONENT
22 ACCOUNT THAT IS NOT VESTED SHALL BE TREATED AS A FORFEITURE.

23 (4) (a) YEARS OF SERVICE IN THE MONEY PURCHASE COMPONENT
24 FOR PURPOSES OF THIS SECTION CANNOT BE PURCHASED BY THE MEMBER
25 OR THE EMPLOYER.

26 (b) A MEMBER WHO ONLY PARTICIPATES IN THE MONEY PURCHASE
27 COMPONENT DOES NOT RECEIVE SERVICE CREDIT FOR PURPOSES OF THE

1 LIFETIME BENEFIT COMPONENTS.

2 (c) FOR MEMBERS WHO PARTICIPATE IN BOTH THE LIFETIME
3 BENEFIT COMPONENTS AND THE MONEY PURCHASE COMPONENT
4 CONCURRENTLY, YEARS OF SERVICE INCLUDE ALL YEARS OF SERVICE WITH
5 THE EMPLOYER WHILE IN THE PLAN OR A PREDECESSOR PLAN, REGARDLESS
6 OF WHETHER CONTRIBUTIONS WERE MADE TO THE MONEY PURCHASE
7 COMPONENT FOR EACH YEAR.

8 (5) A MEMBER WHO IS RESTORED TO ACTIVE SERVICE AFTER A
9 DISABILITY CEASES TO EXIST RECEIVES CREDIT FOR YEARS OF SERVICE IN
10 THE MONEY PURCHASE COMPONENT WITH THE EMPLOYER PRIOR TO THE
11 DISABILITY AS WELL AS TIME WHILE OUT ON DISABILITY.

12 (6) SUBJECT TO RULES ADOPTED BY THE BOARD, YEARS OF SERVICE
13 OF A MEMBER WHO IS EMPLOYED BY SUCCESSIVE EMPLOYERS MAY BE
14 AGGREGATED FOR DETERMINING ELIGIBILITY AND BENEFITS PROVIDED BY
15 THE MONEY PURCHASE COMPONENT OF THE STATEWIDE RETIREMENT PLAN
16 IF THE SERVICE FOR EACH EMPLOYER WAS RENDERED WHILE THE
17 EMPLOYER COVERED ITS MEMBERS UNDER THE STATEWIDE RETIREMENT
18 PLAN, THE PREDECESSOR STATEWIDE DEFINED BENEFIT PLAN, OR THE
19 PREDECESSOR STATEWIDE HYBRID PLAN.

20 **31-31.5-502. Normal retirement age.** THE NORMAL RETIREMENT
21 AGE FOR THE MONEY PURCHASE COMPONENT IS AGE FIFTY-FIVE.

22 **31-31.5-503. Individual accounts - investment and account**
23 **administration.** (1) (a) THE BOARD SHALL CREATE AND MAINTAIN
24 ADEQUATE RECORDS TO DISCLOSE THE INTEREST OF EACH MEMBER AND
25 BENEFICIARY WITH ASSETS IN THE MONEY PURCHASE COMPONENT OF THE
26 PLAN. THE RECORDS MUST BE IN THE FORM OF INDIVIDUAL ACCOUNTS, AND
27 CREDITS AND CHARGES MUST BE MADE TO SUCH ACCOUNTS IN THE

1 MANNER PRESCRIBED BY THE BOARD THROUGH RULEMAKING.

2 (b) THE BOARD SHALL DESIGNATE A RECORD KEEPER RESPONSIBLE
3 FOR THE ADMINISTRATION OF THE INDIVIDUAL ACCOUNTS. THE
4 MAINTENANCE OF INDIVIDUAL ACCOUNTS IS ONLY FOR ACCOUNTING
5 PURPOSES, AND A SEGREGATION OF THE ASSETS OF THE TRUST FUND TO
6 EACH ACCOUNT IS NOT REQUIRED.

7 (c) DISTRIBUTION AND WITHDRAWALS MADE FROM AN ACCOUNT
8 MUST BE CHARGED TO THE ACCOUNTS AS OF THE DATE PAYMENT IS MADE.
9 EARNINGS OR LOSSES ON THE AMOUNT ALLOCATED TO THE MEMBER'S
10 INDIVIDUAL ACCOUNT WHILE INVESTED AS PART OF THE MEMBERS
11 SELF-DIRECTED INVESTMENT FUND MUST BE ALLOCATED AS DETERMINED
12 BY THE RECORD KEEPER.

13 (2) (a) THE BOARD MAY CREATE AND OFFER TO EACH MEMBER
14 WITH AN INDIVIDUAL ACCOUNT IN THE MONEY PURCHASE COMPONENT
15 VARIOUS INVESTMENT OPTIONS, INCLUDING AT LEAST THREE
16 ALTERNATIVES THAT ALLOW A MEMBER A BROAD RANGE OF INVESTMENTS,
17 DIVERSIFICATION, AND A MEANINGFUL CHOICE BETWEEN RISK AND RETURN
18 IN THE INVESTMENT OF THE MEMBER'S ACCOUNT.

19 (b) (I) ONE HUNDRED PERCENT OF EACH INDIVIDUAL ACCOUNT
20 MAY BE INVESTED AS DIRECTED BY THE MEMBER IN ANY ONE OR A
21 COMBINATION OF THE INVESTMENT OPTIONS. IF A MEMBER OR DESIGNATED
22 BENEFICIARY DOES NOT HAVE A VALID INVESTMENT ELECTION ON FILE FOR
23 ANY PORTION OF THE AMOUNT IN THAT MEMBER'S ACCOUNTS, THAT
24 PORTION OF THE MEMBER'S ACCOUNTS SHALL BE INVESTED IN THE
25 INVESTMENT OPTION SELECTED BY THE BOARD AS THE DEFAULT OPTION.
26 IN SUCH EVENT, THE MEMBER OR DESIGNATED BENEFICIARY IS DEEMED TO
27 HAVE DIRECTED THAT INVESTMENT OPTION FOR INVESTMENT OF THAT

1 PORTION OF THE MEMBER'S ACCOUNTS.

2 (II) UPON THE DEATH OF THE MEMBER, THE DESIGNATED
3 BENEFICIARY MAY ELECT TO ALLOCATE THE INVESTMENT OF THE
4 MEMBER'S INDIVIDUAL ACCOUNT AS PROVIDED FOR IN THIS SECTION. IF NO
5 NOTICE OF REALLOCATION IS RECEIVED FROM THE DESIGNATED
6 BENEFICIARY, THE MEMBER'S INDIVIDUAL ACCOUNT REMAINS INVESTED AS
7 PREVIOUSLY ALLOCATED DURING THE MEMBER'S LIFETIME.

8 (III) THE BOARD MAY ESTABLISH ONE OR MORE DEFAULT OPTIONS
9 BASED UPON VARIOUS FACTORS, INCLUDING BUT NOT LIMITED TO MARKET
10 RISK, STABILITY, AND RATE OF RETURN. IF THE BOARD HAS PROPERLY
11 EXERCISED ITS FIDUCIARY DUTY IN SELECTING A DEFAULT OPTION, IT HAS
12 NO LIABILITY FOR ANY LOSS SUSTAINED BY A MEMBER OR DESIGNATED
13 BENEFICIARY WHOSE ACCOUNTS IN WHOLE OR IN PART ARE INVESTED IN
14 THE DEFAULT OPTION.

15 (c) MEMBERS MAY REDIRECT THE INVESTMENT OF THEIR ACCOUNT
16 AT ANY TIME AND MAY REALLOCATE MONEY IN EXISTING FUNDS AS
17 ALLOWED BY THE ASSOCIATION. THE BOARD MAY ALSO BRING A SUIT OR
18 TAKE SUCH OTHER ACTION AS IT DEEMS APPROPRIATE IF QUESTIONS
19 INVOLVING INVESTMENT DIRECTIONS ARISE.

20 (3) THE ACCOUNTS OF MEMBERS, DESIGNATED BENEFICIARIES, AND
21 ALTERNATE PAYEES SHALL BE ADJUSTED IN ACCORDANCE WITH THE
22 FOLLOWING:

23 (a) THE BALANCE OF EACH ACCOUNT MUST BE ADJUSTED DAILY TO
24 REFLECT ANY DISTRIBUTION AND ALL INTEREST, DIVIDENDS, ACCOUNT
25 CHARGES, AND CHANGES OF MARKET VALUE RESULTING FROM THE
26 INVESTMENT OF THE MEMBER'S INDIVIDUAL ACCOUNT.

27 (b) CONTRIBUTIONS MUST BE ALLOCATED TO THE INDIVIDUAL

1 ACCOUNT OF EACH ELIGIBLE MEMBER NOT LESS FREQUENTLY THAN
2 MONTHLY, ACCORDING TO THE AMOUNT THAT IS ACTUALLY CONTRIBUTED
3 ON BEHALF OF EACH MEMBER. IN ALL CASES, DEPOSITS OF CONTRIBUTIONS
4 SHALL BE TREATED AS ACTUALLY MADE ONLY AS OF THE DATE THE
5 CONTRIBUTIONS ARE ACCEPTED AS IN GOOD ORDER BY THE RECORD
6 KEEPER.

7 (c) THE EXPENSES OF THE MONEY PURCHASE COMPONENT OF THE
8 PLAN MUST FIRST BE PAID FROM FORFEITURES, PENALTIES RECEIVED,
9 SETTLEMENT PROCEEDS, AND OTHER SOURCES OF REVENUE RECEIVED, AND
10 THEN MUST BE ALLOCATED TO AND DEDUCTED FROM THE MEMBERS'
11 ACCOUNTS. NOTWITHSTANDING THE FOREGOING, ANY REVENUE CREDITS
12 DERIVED FROM THE INVESTMENTS OFFERED BY THE MONEY PURCHASE
13 COMPONENT MAY INSTEAD BE DISTRIBUTED TO PARTICIPANTS. EXPENSES
14 THAT ARE INCURRED AS A DIRECT RESULT OF THE INVESTMENTS HELD IN
15 THE MONEY PURCHASE COMPONENT ACCOUNT MUST BE DEDUCTED FROM
16 THE INTEREST, DIVIDENDS, AND NET INCOME OF THE APPROPRIATE
17 INVESTMENT. GENERAL EXPENSES MUST BE DEDUCTED FROM THE
18 ACCOUNTS OF EACH MEMBER ACCORDING TO THE MEMBER'S
19 TIME-WEIGHTED PRO-RATA SHARE OF THE MONEY PURCHASE COMPONENT
20 ACCOUNT. THE BOARD MAY ALSO ASSESS A RECORD KEEPING FEE AND AN
21 ADMINISTRATIVE FEE FOR COSTS ASSOCIATED WITH THE ADMINISTRATION
22 OF THE MONEY PURCHASE COMPONENT.

23 **31-31.5-504. Distribution of money purchase component**
24 **accounts.** (1) A MEMBER'S VESTED ACCOUNT BALANCE BECOMES
25 ELIGIBLE FOR DISTRIBUTION UPON THE MEMBER'S DEATH, PERMANENT
26 OCCUPATIONAL OR TOTAL DISABILITY PURSUANT TO PART 8 OF ARTICLE 31
27 OF THIS TITLE 31, NORMAL, VESTED, OR EARLY RETIREMENT, OR

1 TERMINATION OF EMPLOYMENT.

2 (2) UPON BECOMING ELIGIBLE FOR DISTRIBUTION AND UPON
3 APPROVAL OF THE BOARD, A MEMBER, OR THE DESIGNATED BENEFICIARY
4 IF THE MEMBER DIES BEFORE DISTRIBUTION OF THE MEMBER'S INDIVIDUAL
5 ACCOUNT, MAY ELECT TO RECEIVE THE VESTED PORTION OF BALANCE OF
6 THE MEMBER'S INDIVIDUAL ACCOUNT BY ONE OF THE FOLLOWING
7 METHODS:

8 (a) THE MEMBER OR DESIGNATED BENEFICIARY MAY CHOOSE A
9 LUMP SUM PAYMENT OF ALL OR A PORTION OF THE MEMBER'S INDIVIDUAL
10 ACCOUNT.

11 (b) THE MEMBER OR DESIGNATED BENEFICIARY MAY ELECT TO
12 HAVE THE VALUE OF ALL OR A PORTION OF THE INDIVIDUAL ACCOUNT
13 USED TO PURCHASE AN ANNUITY CONTRACT, WITH A TERM AND IN A FORM
14 AS THE MEMBER ELECTS. IF THERE IS AN ELECTED DISTRIBUTION IN THE
15 FORM OF AN ANNUITY, ANY BENEFIT PAYABLE AS A RESULT OF THE
16 MEMBER'S OR BENEFICIARY'S DEATH MUST BE DETERMINED SOLELY UNDER
17 THE TERMS OF THE ANNUITY CONTRACT.

18 (c) THE MEMBER MAY ELECT TO HAVE ALL OR A PORTION OF THE
19 MEMBER'S INDIVIDUAL ACCOUNT DISTRIBUTED IN SUBSTANTIALLY EQUAL
20 MONTHLY PAYMENTS OVER THE MEMBER'S LIFE EXPECTANCY OR A PERIOD
21 NOT TO EXCEED THE JOINT LIFE EXPECTANCY OF THE MEMBER AND A
22 SPOUSE, IF THE SPOUSE IS THE SOLE BENEFICIARY, OR UNTIL THE ACCOUNT
23 IS EXHAUSTED. IF THE MEMBER DIES PRIOR TO THE MEMBER'S REQUIRED
24 BEGINNING DATE, THE DESIGNATED BENEFICIARY MAY ELECT TO HAVE ALL
25 OR A PORTION OF THE MEMBER'S INDIVIDUAL ACCOUNT DISTRIBUTED IN
26 SUBSTANTIALLY EQUAL MONTHLY PAYMENTS OVER A PERIOD NOT TO
27 EXCEED THE LIFE EXPECTANCY OF THE DESIGNATED BENEFICIARY.

1 (d) A MEMBER WHO IS VESTED IN BOTH MEMBER AND EMPLOYER
2 CONTRIBUTIONS TO THE MONEY PURCHASE COMPONENT OF THE PLAN AND
3 HAS ATTAINED AGE FIFTY-FIVE MAY ELECT TO TRANSFER ALL OR PART OF
4 THE MEMBER'S INDIVIDUAL ACCOUNT BALANCE WITHIN THE PLAN FROM
5 THE MONEY PURCHASE COMPONENT ACCOUNT TO THE LIFETIME BENEFITS
6 ACCOUNT TO PURCHASE A MONTHLY BENEFIT, WHICH IS CONSIDERED A
7 PORTION OF THE PENSION UNDER PART 4 OF THIS ARTICLE 31.5. AT
8 RETIREMENT, A MEMBER MAY MAKE A ONE-TIME IRREVOCABLE ELECTION
9 TO PURCHASE THE MONTHLY BENEFIT IN A SINGLE LUMP SUM, WHICH MUST
10 BE TRANSFERRED PRIOR TO THE RECEIPT OF BENEFITS FROM THE LIFETIME
11 BENEFIT COMPONENTS. FUNDS MAY NOT BE TRANSFERRED FROM OUTSIDE
12 THE STATEWIDE RETIREMENT PLAN TO PURCHASE A MONTHLY BENEFIT.
13 ANY TRANSFERRED OR ROLLOVER FUNDS, EXCEPT THOSE FUNDS
14 TRANSFERRED BY A DEPARTMENT AS PART OF AN AFFILIATION OR REENTRY
15 PROCESS, HELD WITHIN THE MEMBER'S INDIVIDUAL ACCOUNT ARE NOT
16 ELIGIBLE FOR PURCHASE OF A MONTHLY BENEFIT AND REMAIN IN THE
17 ACCOUNT UNTIL OTHERWISE DISTRIBUTED.

18 (3) A MEMBER WHO TERMINATES EMPLOYMENT AND HAS TAKEN
19 A REFUND OF THE MEMBER'S CONTRIBUTIONS TO THE LIFETIME BENEFIT
20 COMPONENTS IS NOT REQUIRED TO WITHDRAW THE MONEY PURCHASE
21 COMPONENT ACCOUNT, WHICH SHALL BE MAINTAINED AND SHALL
22 CONTINUE TO RECEIVE ALLOCATIONS FOR EARNINGS AND EXPENSES UNTIL
23 THE ASSETS OF THE ACCOUNT ARE DISTRIBUTED.

24 (4) THE BOARD MAY ESTABLISH BY RULE A MINIMUM VALUE FOR
25 AN INDIVIDUAL ACCOUNT AND MAY REQUIRE DISTRIBUTION IF AN
26 ACCOUNT FALLS BELOW THE REQUIRED MINIMUM VALUE WITHOUT RECEIPT
27 OF A REQUEST FOR DISTRIBUTION.

(5) UPON A MEMBER'S DEATH WITH NO DESIGNATED BENEFICIARY, THE MEMBER'S INDIVIDUAL ACCOUNT MUST BE DISTRIBUTED TO THE MEMBER'S ESTATE. UPON THE DEATH OF A DESIGNATED BENEFICIARY WHO SUCCEEDED THE MEMBER IN DEATH, THE MEMBER'S INDIVIDUAL ACCOUNT MUST BE DISTRIBUTED TO THE DESIGNATED BENEFICIARY'S ESTATE.

6 (6) TO THE EXTENT ALLOWED UNDER THE FEDERAL "INTERNAL
7 REVENUE CODE OF 1986", AS AMENDED, THE BOARD MAY, BUT IS NOT
8 REQUIRED TO, PROVIDE BY RULE FOR LOANS OR DISASTER DISTRIBUTIONS
9 TO MEMBERS AND FOR IN-SERVICE DISTRIBUTIONS.

10 PART 6
11 AMENDMENT OF THE PLAN

12 **31-31.5-601. Modification of plan by the board.** (1) SUBJECT
13 TO THE REQUIREMENTS SET FORTH IN SUBSECTION (2) OF THIS SECTION
14 AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 31.5, THE
15 BOARD MAY MODIFY THE STATEWIDE RETIREMENT PLAN AS FOLLOWS:

(a) TO MODIFY THE MULTIPLIER, RETIREMENT AGE, OR SERVICE REQUIREMENTS FOR PENSION BENEFITS SET FORTH IN PART 4 OF THIS ARTICLE 31.5 WITH RESPECT TO THE MEMBERS OF THE DEFINED BENEFIT COMPONENTS IF THE MODIFICATION DOES NOT REQUIRE AN INCREASE IN THE EMPLOYER AND MEMBER CONTRIBUTION RATES ESTABLISHED PURSUANT TO PART 3 OF THIS ARTICLE 31.5 AND IF THE BOARD DETERMINES THAT THE MODIFICATION WILL MAINTAIN OR ENHANCE THE ACTUARIAL SOUNDNESS, AS SPECIFIED IN SECTION 31-31.5-101 (5)(a); AND

(b) TO INCREASE THE MEMBER CONTRIBUTION RATE ABOVE THE RATES ESTABLISHED PURSUANT TO PART 3 OF THIS ARTICLE 31.5 WITH RESPECT TO THE MEMBERS OF THE STATEWIDE RETIREMENT PLAN IF THE INCREASE DOES NOT REQUIRE AN INCREASE IN THE EMPLOYER

1 CONTRIBUTION RATE ESTABLISHED PURSUANT TO PART 3 OF THIS ARTICLE
2 31.5. ANY SUCH INCREASE IN THE MEMBER CONTRIBUTION RATE IS NOT
3 SUBJECT TO NEGOTIATION FOR PAYMENT BY THE EMPLOYER.

4 (c) TO INCREASE THE CONTRIBUTION RATES ABOVE THE RATES
5 ESTABLISHED PURSUANT TO PART 3 OF THIS ARTICLE 31.5 WITH RESPECT
6 TO THE MEMBERS AND EMPLOYERS OF THE STATEWIDE RETIREMENT PLAN
7 IF THE RATE OF INCREASE FOR THE MEMBER AND FOR THE EMPLOYER IS
8 EQUAL.

9 (2) BEFORE MODIFYING THE PLAN PURSUANT TO SUBSECTION (1)
10 OF THIS SECTION, THE BOARD MUST FIND THAT:

11 (a) THE MODIFICATION DOES NOT ADVERSELY AFFECT THE PLAN'S
12 STATUS AS A QUALIFIED PLAN PURSUANT TO THE FEDERAL "INTERNAL
13 REVENUE CODE OF 1986", AS AMENDED;

14 (b) THE MODIFICATION HAS BEEN APPROVED BY SIXTY-FIVE
15 PERCENT OF THE ACTIVE MEMBERS OF THE STATEWIDE RETIREMENT PLAN
16 WHO ARE AFFECTED BY THE MODIFICATION AND WHO VOTE IN AN
17 ELECTION PROPOSING THE MODIFICATION;

18 (c) THE MODIFICATION HAS BEEN APPROVED BY MORE THAN FIFTY
19 PERCENT OF THE EMPLOYERS HAVING ACTIVE MEMBERS COVERED BY THE
20 STATEWIDE RETIREMENT PLAN THAT VOTE IN THE ELECTION PROPOSING
21 THE MODIFICATION, EACH EMPLOYER TO BE ASSIGNED ONE VOTE; EXCEPT
22 THAT EMPLOYERS HAVING BOTH ACTIVE POLICE AND ACTIVE FIRE
23 MEMBERS IN THE PLAN SHALL BE ASSIGNED TWO VOTES; AND

24 (d) THE MODIFICATION DOES NOT ADVERSELY AFFECT THE PENSION
25 BENEFITS OF RETIRED MEMBERS.

26 (3) ANY INCREASE IN THE MEMBER CONTRIBUTION RATE
27 ESTABLISHED PURSUANT TO THIS SECTION SHALL BE PAID FROM A

1 MEMBER'S SALARY AND OTHERWISE BE TREATED IN THE SAME MANNER
2 SPECIFIED IN PART 3 OF THIS ARTICLE 31.5 FOR REQUIRED MINIMUM
3 MEMBER CONTRIBUTIONS FOR PURPOSES OF THE FEDERAL "INTERNAL
4 REVENUE CODE OF 1986", AS AMENDED.

5 (4) THE BOARD MAY ELIMINATE AN INCREASE IN THE MEMBER OR
6 THE MEMBER AND EMPLOYER CONTRIBUTION RATE INCREASES
7 ESTABLISHED PURSUANT TO THIS PART 6 SO LONG AS THE REQUIREMENTS
8 FOR AN INCREASE SET FORTH IN SUBSECTION (2) OF THIS SECTION ARE MET.

9 (5) THE BOARD SHALL NOT ADOPT A MODIFICATION THAT REDUCES
10 THE STATEWIDE RETIREMENT PLAN'S AGE FOR NORMAL RETIREMENT
11 BELOW THAT PERMITTED BY SECTION 31-31.5-401 (2).

12 (6) THE BOARD SHALL ADOPT RULES SETTING FORTH THE
13 PROCEDURES FOR THE ELECTIONS REQUIRED BY SUBSECTIONS (2)(b) AND
14 (2)(c) OF THIS SECTION. EACH EMPLOYER HAVING MEMBERS IN THE
15 STATEWIDE RETIREMENT PLAN SHALL COMPLY WITH THE PROCEDURES
16 ESTABLISHED BY THE BOARD AND SHALL CERTIFY THE RESULTS OF ANY
17 MEMBER ELECTION TO THE BOARD AS PRESCRIBED BY THE BOARD'S RULES.

18 (7) A WRITTEN COPY OF THE LANGUAGE OF ANY MODIFICATIONS
19 TO THE STATEWIDE DEFINED BENEFIT PLAN OR AN INCREASE IN THE
20 MEMBER CONTRIBUTION RATE ADOPTED BY THE BOARD PURSUANT TO THIS
21 SECTION SHALL BE KEPT AND MAINTAINED BY THE BOARD AT ITS OFFICES
22 AND BE MADE AVAILABLE FOR COPYING AND INSPECTION BY ANY
23 INTERESTED PARTY.

24 (8) IF AT ANY TIME THE COST OF ANY MODIFICATION ADOPTED BY
25 THE BOARD PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION WOULD
26 REQUIRE AN INCREASE IN EMPLOYER AND MEMBER CONTRIBUTIONS MADE
27 PURSUANT TO PART 3 OF THIS ARTICLE 31.5 OR ANY HIGHER MEMBER

1 CONTRIBUTION RATE ESTABLISHED PURSUANT TO SUBSECTION (1)(b) OF
2 THIS SECTION, THE BOARD SHALL REVOKE THE MODIFICATION AS IT
3 APPLIES TO ACTIVE MEMBERS OF THE STATEWIDE RETIREMENT PLAN
4 PURSUANT TO SECTION 31-31.5-402. THE BOARD MAY REINSTITUTE THE
5 MODIFICATION AT A LATER DATE, IN ITS DISCRETION, IF REINSTITUTING THE
6 MODIFICATION WOULD NOT REQUIRE AN INCREASE IN THE EMPLOYER AND
7 MEMBER CONTRIBUTIONS MADE PURSUANT TO PART 3 OF THIS ARTICLE
8 31.5.

9 **SECTION 2.** In Colorado Revised Statutes, 31-31-202, **amend**
10 (3) as follows:

11 **31-31-202. Powers and duties of the board.** (3) Under the
12 direction of the board, each employer, including employers not covered
13 by or specifically exempted from the statewide ~~defined-benefit~~
14 RETIREMENT plan in accordance with the provisions of section 31-31-401
15 (1), shall furnish such information and shall keep such records as the
16 board may require for the discharge of its duties.

17 **SECTION 3.** In Colorado Revised Statutes, **amend** 31-31-203 as
18 follows:

19 **31-31-203. Fund not subject to levy.** Except for assignments for
20 child support debt pursuant to section 14-14-104, ~~C.R.S.~~, child support
21 arrearages as requested as part of an enforcement action under article 5
22 of title 14, ~~C.R.S.~~, or child support arrearages that are the subject of
23 enforcement services provided under section 26-13-106, ~~C.R.S.~~, for
24 income assignments for child support purposes pursuant to section
25 14-14-111.5, ~~C.R.S.~~, for writs of garnishment that are the result of a
26 judgment taken for arrearages for child support or for child support debt,
27 for payments made in compliance with a properly executed court order

1 approving a written agreement entered into pursuant to section 14-10-113
2 (6), ~~C.R.S.~~, and for restitution that is required to be paid for the theft,
3 embezzlement, misappropriation, or wrongful conversion of public
4 property or in the event of a judgment for a willful and intentional
5 violation of fiduciary duties pursuant to this ~~article~~ ARTICLE 31 where the
6 offender or a related party received direct financial gain, OR AS
7 OTHERWISE REQUIRED UNDER FEDERAL LAW, no portion of the funds
8 created pursuant to ~~sections 31-31-204 (4), 31-31-502, 31-31-701 (6),~~
9 ~~31-31-706 (1), 31-31-813 (1), and 31-31-901 (3),~~ THIS ARTICLE 31 OR
10 ARTICLE 31.5 OF THIS TITLE 31 before or after their order for distribution
11 by the board to the persons entitled thereto, shall be held, seized, taken,
12 subjected to, detained, or levied on by virtue of any attachment,
13 execution, injunction, writ, interlocutory or other order or decree, or
14 process or proceeding whatsoever issued out of or by any court of this
15 state for the payment or satisfaction, in whole or in part, of any debt,
16 damage, claim, demand, or judgment against the fire and police pension
17 association or employers that belong to such association or the beneficiary
18 of such funds. The funds shall be held and distributed for the purpose of
19 this ~~article~~ ARTICLE 31 and for no other purpose whatsoever.

20 **SECTION 4.** In Colorado Revised Statutes, 31-31-204, **amend**
21 (1)(a), (2.5), (3)(b), and (3)(c); and **repeal** (1)(b) and (4)(d) as follows:

22 **31-31-204. Defined benefit system.** (1) There shall be a defined
23 benefit system that shall consist of the following plans:

24 (a) The statewide ~~defined benefit~~ RETIREMENT plan established
25 pursuant to ~~part 4 of this article~~ ARTICLE 31.5 OF THIS TITLE 31;

26 (b) ~~The statewide hybrid plan established pursuant to part 11 of~~
27 ~~this article;~~

1 (2.5) Notwithstanding ~~section 31-31-408 or 31-31-1102 (5)~~
2 SECTION 31-31.5-601 or the terms of an agreement entered into pursuant
3 to section 31-31-706 (2), the board may modify, ALTER, or amend the
4 plan provisions contained in ~~part 4 of this article~~ ARTICLE 31.5 OF THIS
5 TITLE 31 or a plan document or rules of a plan within the defined benefit
6 system as the board deems prudent and necessary to administer benefits
7 under the plan consistently and uniformly across the defined benefit
8 system in a manner that does not result in an actuarial cost to the plan.
9 Such modifications or amendments may include changes to the options
10 for the distribution of benefits. This subsection (2.5) shall not be
11 construed to authorize modification to the amount of a normal benefit.

12 (3) **Qualification requirements - internal revenue code -**
13 **definitions.** (b) The defined benefit system and each of the plans
14 established by ~~part 2, 4, 7, or 11 of this article~~ PART 2 OR 7 OF THIS
15 ARTICLE 31 OR PART 1 OF ARTICLE 31.5 OF THIS TITLE 31 included within
16 the system shall satisfy the qualification requirements specified in section
17 401 of the internal revenue code, as applicable to governmental plans.

18 (c) The board may adopt any provision for a plan established by
19 ~~part 2, 4, 7, or 11 of this article~~ PART 2 OR 7 OF THIS ARTICLE 31 OR PART
20 1 OF ARTICLE 31.5 OF THIS TITLE 31 that is necessary to comply with the
21 internal revenue code.

22 (4) **Trust fund.** (d) ~~The following accounts shall be established~~
23 ~~within the trust fund:~~

24 ~~(I) A new hire benefits account for the statewide defined benefit~~
25 ~~plan, into which contributions shall be deposited. The benefits provided~~
26 ~~by the statewide defined benefit plan shall be paid from such account.~~

27 ~~(II) Accounts for the statewide hybrid plan as may be required~~

1 ~~under the statewide hybrid plan document;~~

2 ~~(III) Accounts for exempt plans incorporated into the statewide~~
3 ~~defined benefit plan as may be required under the plan documents; and~~

4 ~~(IV) Accounts for health-care benefit plans as may be required~~
5 ~~under the health-care plan documents.~~

6 **SECTION 5.** In Colorado Revised Statutes, **add** 31-31-205 as
7 follows:

8 **31-31-205. Confidentiality of members' protected personal**
9 **information.** ALL INFORMATION CONTAINED IN RECORDS OF ACTIVE
10 MEMBERS, RETIRED MEMBERS, FORMER MEMBERS, INACTIVE MEMBERS,
11 DESIGNATED BENEFICIARIES, ALTERNATE PAYEES, BENEFIT RECIPIENTS,
12 AND THEIR DEPENDENTS OF ANY PLAN ADMINISTERED BY THE
13 ASSOCIATION OR OF ANY LOCALLY ADMINISTERED AND FINANCED
14 ALTERNATIVE PLAN SHALL BE MAINTAINED AS CONFIDENTIAL. THE
15 ASSOCIATION OR LOCAL PLAN ADMINISTRATOR MAY PROVIDE SUCH
16 INFORMATION AS IS NECESSARY TO A THIRD-PARTY SERVICE PROVIDER
17 PURSUANT TO ARTICLE 73 OF TITLE 24.

18 **SECTION 6.** In Colorado Revised Statutes, **amend** 31-31-401 as
19 follows:

20 **31-31-401. Applicability of plan.** (1) Every employer in this
21 state shall provide the pension benefits of the statewide ~~defined benefit~~
22 RETIREMENT plan established by ~~this part 4~~ PART 31.5 OF THIS TITLE 31 for
23 members hired on or after April 8, 1978, except for the following:

24 (a) Any employer that began covering members under the federal
25 "Social Security Act" on or before August 11, 2005, and any employer
26 that began covering members under the federal "Social Security Act" on
27 or before August 11, 2005, that chooses to cover members hired after

1 August 11, 2005, under the federal "Social Security Act";

2 (b) Any employer that covers members under an exempt plan
3 established pursuant to part 8 of article 30.5 of this title;

4 (c) Any employer that has withdrawn its members from the
5 statewide defined benefit plan pursuant to part 6 of this article and
6 established a locally administered and financed alternative pension plan;

7 (d) Any employer that has withdrawn its members from the
8 statewide defined benefit plan for the purpose of covering them under the
9 statewide money purchase plan established pursuant to part 5 of this
10 article; and

11 (e) Any employer that covers a member hired on or after April 8,
12 1978, but before January 1, 1980, under an old hire pension plan as
13 permitted by section 31-30.5-103 (1).

14 (2) Nothing in this part 4 shall affect retirement pensions or
15 disability or survivor benefits of members hired prior to April 8, 1978,
16 who retired, were disabled, or died prior to January 1, 1980.

17 (3) Where an employer results from a merger, a consolidation, or
18 an exclusion or dissolution proceeding between or among one or more
19 employers, including a new governmental entity created by
20 intergovernmental agreement between or among one or more employers,
21 all members transferred to or employed by such resulting employer shall,
22 for the purposes of this article 31 and ~~article 30.5~~ ARTICLES 30.5 AND 31.5
23 of this title 31, have those rights and obligations they had prior to the
24 merger, consolidation, exclusion, dissolution, or intergovernmental
25 agreement. In the event of a transfer of members, provision shall be made
26 in such agreement or proceeding for allocation and transfer of plan assets,
27 and, in the event of the transfer of members of a defined benefit plan,

1 provision shall be made in such agreement or proceeding for discharging
2 plan liabilities and funding in order to maintain or enhance the actuarial
3 soundness of the remaining and resulting plans. If the resulting employer
4 had no members prior to the merger, consolidation, exclusion, or
5 dissolution, it may continue as its plan any plan of a transferring
6 employer, authorized by this article, for its members hired after the
7 effective date of the agreement or proceeding or the resulting employer
8 shall belong to the statewide ~~defined benefit~~ RETIREMENT plan. The board
9 may authorize the resulting employer to consolidate preexisting
10 retirement plans and any retirement plan attributable solely to the
11 resulting employer into one or more plans if the plans to be consolidated
12 are identical, the benefits are equal for all members covered under the
13 retirement provisions of the plans, and no member suffers a reduction of
14 benefits or an increase in member contributions due to such plan
15 consolidation. Any member employed by a predecessor department who
16 participated in a money purchase plan prior to the merger, consolidation,
17 exclusion, or dissolution and who participates in the statewide ~~defined~~
18 ~~benefit~~ RETIREMENT plan after the merger, consolidation, exclusion, or
19 dissolution shall pay the continuing uniform rate of contribution
20 established by the board pursuant to ~~section 31-31-1101 (7)~~ SECTION
21 31-31.5-305.

22 (4) (a) ~~A department chief hired on or after April 8, 1978, shall be~~
23 ~~exempted from the statewide defined benefit plan, upon the execution of~~
24 ~~a written agreement between the department chief and the chief's~~
25 ~~employer that provides for the department chief's participation in social~~
26 ~~security or in a federal insurance contribution act replacement plan as~~
27 ~~allowed under the federal internal revenue code, and the submission of~~

1 ~~notice to the association. A department chief may satisfy the federal~~
2 ~~insurance contribution act replacement plan requirement by participating~~
3 ~~in an employer sponsored plan, the statewide money purchase plan, or the~~
4 ~~statewide hybrid plan. The transfer of member and employer~~
5 ~~contributions between the statewide defined benefit plan and the~~
6 ~~statewide money purchase plan shall be consistent with the provisions of~~
7 ~~section 31-31-501.~~

8 ~~(b) For purposes of this subsection (4), a "department chief"~~
9 ~~means the senior command officer of any fire or police department of any~~
10 ~~employer, by whatever title known, including but not limited to chief,~~
11 ~~administrator, or director.~~

12 ~~(c) A department chief exempted pursuant to paragraph (a) of this~~
13 ~~subsection (4) may maintain coverage for disability and survivor benefits~~
14 ~~under part 8 of this article if the department chief participates in the~~
15 ~~statewide money purchase plan, the statewide hybrid plan, or a local~~
16 ~~money purchase plan that is qualified under section 401(a) of the federal~~
17 ~~internal revenue code and that has a contribution rate of not less than~~
18 ~~sixteen percent.~~

19 ~~(5) A member normally serving less than one thousand six~~
20 ~~hundred hours in any calendar year shall be exempted from THE LIFETIME~~
21 ~~BENEFIT COMPONENTS OF the statewide defined benefit RETIREMENT plan~~
22 ~~and shall be covered under the statewide money purchase plan.~~

23 ~~(6) If an employer that is otherwise required to enroll its members~~
24 ~~under the A plan fails to properly enroll such members, neither the fire~~
25 ~~and police pension association nor the defined benefit system trust fund~~
26 ~~is obligated or liable for any purpose to any person or employer arising~~
27 ~~from such failure.~~

1 **SECTION 7.** In Colorado Revised Statutes, **add** 31-31-412 as
2 follows:

3 **31-31-412. Merger in to the statewide retirement plan.**

4 (1) (a) ON OR ABOUT JANUARY 1, 2023, THE ASSETS AND LIABILITIES OF
5 THE STATEWIDE DEFINED BENEFIT PLAN SHALL MERGE INTO THE
6 STATEWIDE RETIREMENT PLAN CREATED PURSUANT TO ARTICLE 31.5 OF
7 THIS TITLE 31.

8 (b) STATEWIDE DEFINED BENEFIT ASSETS HELD IN THE ACTUARIAL
9 ACCOUNT PURSUANT TO THIS PART 4 SHALL BE TRANSFERRED TO THE
10 LIFETIME BENEFITS ACCOUNT CREATED PURSUANT TO PART 1 OF ARTICLE
11 31.5 OF THIS TITLE 31.

12 (c) STABILIZATION RESERVE ACCOUNT ASSETS HELD IN SEPARATE
13 RETIREMENT ACCOUNTS PURSUANT TO THIS PART 4 SHALL BE
14 TRANSFERRED TO THE MONEY PURCHASE ACCOUNT CREATED PURSUANT
15 TO PART 1 OF ARTICLE 31.5 OF THIS TITLE 31.

16 (d) DEFERRED RETIREMENT OPTION PLAN ACCOUNT ASSETS OF THE
17 STATEWIDE DEFINED BENEFIT PLAN SHALL BE TRANSFERRED TO THE
18 MONEY PURCHASE ACCOUNT CREATED TO PURSUANT TO PART 1 OF
19 ARTICLE 31.5 OF THIS TITLE 31.

20 (2) ALL REMAINING DEFINED BENEFITS AND OTHER OBLIGATIONS
21 OF THE STATEWIDE DEFINED BENEFIT PLAN PAYABLE ON AND AFTER
22 JANUARY 1, 2023, SHALL BE PAID FROM THE LIFETIME BENEFITS ACCOUNT
23 OF THE STATEWIDE RETIREMENT PLAN; EXCEPT THAT THE REMAINING
24 OBLIGATIONS HELD IN THE SEPARATE RETIREMENT ACCOUNTS OF THE
25 STATEWIDE DEFINED BENEFIT PLAN SHALL BE TRANSFERRED TO AND BE
26 PAYABLE FROM THE MONEY PURCHASE COMPONENT OF THE STATEWIDE
27 RETIREMENT. SAID OBLIGATIONS SHALL BE PAID PURSUANT TO THE

1 STATUTORY PROVISIONS AND RULES ADOPTED BY THE BOARD REGARDING
2 THE STATEWIDE RETIREMENT PLAN.

3 (3) PARTICIPATION BY ALL MEMBERS, INCLUDING RETIREES, IN THE
4 STATEWIDE DEFINED BENEFIT PLAN SHALL TERMINATE UPON THE MERGER
5 OF THE PLANS AND SAID MEMBERS SHALL BEGIN PARTICIPATION IN THE
6 DEFINED BENEFIT COMPONENT OF THE STATEWIDE RETIREMENT PLAN.
7 ACCUMULATED SERVICE CREDIT AND LENGTH OF SERVICE SHALL BE
8 AGGREGATED BETWEEN THE PLANS.

9 (4) IMMEDIATELY AFTER SUCH TRANSFER, THE AFFECTED
10 MEMBER'S ACCRUED BENEFITS IN THE STATEWIDE RETIREMENT PLAN
11 SHALL BE EQUAL TO THE MEMBER'S ACCRUED BENEFITS IMMEDIATELY
12 BEFORE THE TRANSFER.

13 (5) THE MERGER IS INTENDED TO BE CONSISTENT WITH THE
14 REQUIREMENTS UNDER SECTION 414(l) OF THE "INTERNAL REVENUE CODE
15 OF 1986", AS AMENDED, AND SHALL NOT BE CONSIDERED A PLAN
16 TERMINATION AND SHALL NOT RESULT IN A DISTRIBUTABLE EVENT.

17 **SECTION 8.** In Colorado Revised Statutes, 31-31-501, **amend**
18 (1), (2), (4)(a)(I), (6)(a), (6)(b)(I), (6)(b)(II), (6)(b)(IV), (6)(c), and (7) as
19 follows:

20 **31-31-501. Withdrawal into statewide money purchase plan.**

21 (1) Any employer may withdraw from its participation in the statewide
22 ~~defined benefit~~ RETIREMENT plan established by ~~part 4 of this article~~
23 ARTICLE 31.5 OF THIS TITLE 31 for the sole purpose of electing
24 participation in the statewide money purchase plan created pursuant to the
25 authority granted in section 31-31-502.

26 (2) (a) The employer may initiate withdrawal from the statewide
27 ~~defined benefit~~ RETIREMENT plan by filing with the board a resolution

1 adopted by the employer pursuant to ~~paragraph (b) of this subsection (2)~~
2 SUBSECTION (2)(b) OF THIS SECTION no less than nine months prior to the
3 effective date of withdrawal unless a shorter waiting period is approved
4 by the board. The effective date of withdrawal shall be the first day of the
5 month immediately following the month in which the waiting period
6 expires.

7 (b) The employer's withdrawal resolution shall be adopted by the
8 governing body of the employer and shall state the employer's intent to
9 withdraw from participation in the statewide ~~defined benefit~~ RETIREMENT
10 plan for the purpose of electing participation in the statewide money
11 purchase plan.

12 (c) Any withdrawal shall be approved by at least sixty-five percent
13 of all active members employed by the employer who are participating in
14 the statewide ~~defined benefit~~ RETIREMENT plan at the time of the election
15 and who vote in the election proposing the withdrawal.

16 (d) The board shall promulgate rules relating to standards for
17 disclosure of all ramifications and procedures for obtaining the member
18 approval provided for in ~~paragraph (c) of this subsection (2)~~ SUBSECTION
19 (2)(c) OF THIS SECTION.

20 (e) All withdrawals from the statewide ~~defined benefit~~
21 RETIREMENT plan shall comply with the requirements set forth in this
22 section, and, except as otherwise provided in this section, all withdrawals
23 meeting such requirements shall be approved by the board. Withdrawal
24 requests that do not meet the requirements of this section shall not be
25 approved by the board.

26 (4) (a) (I) The board shall determine the amount of reserves
27 required as of the effective date of withdrawal to maintain current

1 benefits payable by the association to benefit recipients and to preserve
2 the vested rights of inactive members. The amount of reserves shall be
3 determined by the board utilizing certified actuarial reports prepared by
4 the actuary for the statewide ~~defined benefit~~ RETIREMENT plan. Any such
5 actuarial report shall also certify that the employer's withdrawal shall not
6 have an adverse financial impact on the actuarial soundness of the new
7 hire benefits account. If the actuary determines, in accordance with
8 accepted actuarial principles, that the withdrawal will not have an adverse
9 financial impact on the actuarial soundness of the new hire benefits
10 account, the board shall transfer such employer's share of the employer
11 contribution reserve in the new hire benefits account, as determined by
12 the actuary, and all member contributions for the employer's active
13 members to a short-term investment account. If the actuary determines,
14 in accordance with accepted actuarial principles, that the withdrawal shall
15 have an adverse financial impact on the actuarial soundness of the new
16 hire benefits account, the employer shall not be permitted to withdraw.

17 (6) (a) Members who are not vested under the statewide ~~defined~~
18 ~~benefit~~ RETIREMENT plan and who are employed by an employer who has
19 withdrawn from the statewide ~~defined benefit~~ RETIREMENT plan shall
20 have their member contributions credited to the statewide money
21 purchase pension plan as set forth in section 31-31-502.

22 (b) (I) Members who are vested under the statewide ~~defined~~
23 ~~benefit~~ RETIREMENT plan and who are employed by an employer who has
24 filed a resolution of intent to withdraw from the statewide ~~defined benefit~~
25 RETIREMENT plan may elect that, if the withdrawal becomes effective,
26 their contributions remain with the statewide ~~defined benefit~~ RETIREMENT
27 plan by giving written notice to the association no later than the date

1 established for completion of the member election provided in ~~paragraph~~
2 ~~(c) of subsection (2)~~ SUBSECTION (2)(c) of this section.

3 (II) Members who have made such an election shall become
4 inactive statewide ~~defined benefit~~ RETIREMENT plan members entitled to
5 vested benefits upon termination and attainment of vested retirement age.

6 (IV) If members who have made such an election die or become
7 disabled prior to termination of employment, neither they nor their
8 survivors shall be eligible for benefits under the statewide ~~defined benefit~~
9 RETIREMENT plan, but rather they shall be limited to those benefits
10 provided in sections 31-31-803, 31-31-807, and 31-31-807.5.

11 (c) Members who do not elect to leave their contributions with the
12 statewide ~~defined benefit~~ RETIREMENT plan pursuant to ~~paragraph (b) of~~
13 ~~this subsection (6)~~ SUBSECTION (6)(b) OF THIS SECTION shall have their
14 member contributions credited to the statewide money purchase pension
15 plan as set forth in section 31-31-502.

16 (7) The provisions of ~~section~~ SECTIONS 31-31-404 (1)(b) AND
17 31-31.5-411 (1)(b) that relate to the purchase of service credit forfeited
18 by the refund of member contributions shall not apply to members who
19 are employees of an employer that has withdrawn from the statewide
20 defined benefit plan. Such service credit forfeited by such withdrawal
21 may be purchased pursuant to the provisions of section 31-31-403 (7) OR
22 31-31.5-310.

23 **SECTION 9.** In Colorado Revised Statutes, 31-31-502, **amend**
24 (1), (2)(a), and (4)(a) as follows:

25 **31-31-502. Statewide money purchase plan - creation -**
26 **management.** (1) The board shall develop, maintain, and amend a
27 statewide money purchase plan document that is intended to comply with

1 the qualification requirements specified in section 401 of the internal
2 revenue code, as applicable to governmental plans. As used in this
3 subsection (1), "internal revenue code" shall have that meaning set forth
4 in section 31-31-204 (3). The plan shall cover the members of those
5 employers that have withdrawn from the statewide ~~defined benefit~~
6 RETIREMENT plan pursuant to section 31-31-501.

7 (2) (a) There is hereby created the fire and police members'
8 statewide money purchase plan benefit trust fund, which shall consist of
9 moneys of employers that have withdrawn from the statewide ~~defined~~
10 ~~benefit~~ RETIREMENT plan pursuant to section 31-31-501, including
11 member and employer contributions and such amounts as are transferred
12 pursuant to section 31-31-501. The board shall keep an accurate account
13 of the fund and of each member's separate account in the fund.

14 (4) (a) Except as provided in ~~paragraph (b) of this subsection (4)~~
15 SUBSECTION (4)(b) OF THIS SECTION, upon the effective date of an
16 employer's withdrawal from the statewide ~~defined benefit~~ RETIREMENT
17 plan and election to participate in the statewide money purchase plan,
18 each member covered by the statewide money purchase plan shall pay
19 into the fund eight percent of salary paid. The payment shall be made by
20 the employer by deduction from the salary paid such member. Except as
21 provided in ~~paragraph (b) of this subsection (4)~~ SUBSECTION (4)(b) OF
22 THIS SECTION, for each such member, the employer shall pay into the fund
23 eight percent of the salary paid to such member. All such payments shall
24 be made by one voucher for the aggregate amount and shall be made no
25 later than ten days following the date of payment of salary to the member.
26 All such payments shall be credited to the fund. Late payments are subject
27 to the penalty set forth in ~~section 31-31-402 (4)~~ SECTION 31-31.5-309.

1 **SECTION 10.** In Colorado Revised Statutes, 31-31-704, **amend**
2 (1) as follows:

3 **31-31-704. Optional affiliation by social security employers.**

4 (1) (a) Prior to January 1, 2007, and notwithstanding the exemption
5 provided in section 31-31-401 (1)(a), any employer that covers members
6 under the federal "Social Security Act", as amended, or any county that
7 covers salaried employees whose duties are directly involved with the
8 provision of law enforcement or fire protection, as certified by the county
9 under the federal "Social Security Act", as amended, may have elected
10 affiliation with the association, either as to coverage under the statewide
11 death and disability plan or as to retirement under the statewide defined
12 benefit plan, or as to both, by filing with the board a resolution of the
13 governing body of such employer, but any such affiliation shall either
14 exclude past service credit or include past service credit funded by
15 contribution levels established by the board.

16 (b) ON OR ABOUT JANUARY 1, 2023, PARTICIPATION BY MEMBERS
17 EMPLOYED BY SOCIAL SECURITY EMPLOYERS WHO ELECTED OPTIONAL
18 AFFILIATION PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION SHALL BE
19 TRANSFERRED TO THE STATEWIDE RETIREMENT PLAN PURSUANT TO THE
20 MERGER DESCRIBED IN SECTION 31-31-412.

21 **SECTION 11.** In Colorado Revised Statutes, 31-31-704.5,
22 **amend** (1); and **add** (8) as follows:

23 **31-31-704.5. Entry for social security employers.**

24 (1) (a) (I) Notwithstanding the exemption provided in section 31-31-401
25 (1)(a), any employer that covers members under the federal "Social
26 Security Act", as amended, or any county that covers salaried employees
27 under the federal "Social Security Act", as amended, whose duties are

1 ~~directly involved with the provision of law enforcement or fire protection~~
2 PEACE OFFICERS OR FIREFIGHTERS as certified by the county may elect
3 coverage under the ~~social security supplemental plan~~ STATEWIDE
4 RETIREMENT PLAN SOCIAL SECURITY SUPPLEMENTAL COMPONENT
5 established pursuant to ~~section 31-31-704.6~~ ARTICLE 31.5 OF THIS TITLE
6 31 by filing a resolution of affiliation with the board pursuant to
7 subsection (2) of this section. Election of coverage under the plan shall
8 be irrevocable.

9 (II) The board may allow an employer eligible for participation in
10 the social security ~~supplemental plan~~ pursuant to subsection (1)(a)(I) of
11 this section to alternatively elect to participate in ~~one or more of the plans~~
12 ~~within the defined benefit system~~ OTHER LIFETIME BENEFIT COMPONENTS
13 OF THE STATEWIDE RETIREMENT PLAN with full benefits and unreduced
14 contribution rates. Such participation shall be as provided by rules
15 adopted by the board. The board may determine a continuing rate of
16 contribution for all members who are active on the effective date of
17 coverage to fund benefits as may be necessary to ensure that the
18 affiliating employers' coverage shall not have an adverse financial impact
19 on the actuarial soundness of the plan.

20 (b) A county electing to affiliate with the association FOR THE
21 PURPOSE OF PROVIDING COVERAGE OF ITS PEACE OFFICERS OR
22 FIREFIGHTERS shall make such election through the county's governing
23 board. For purposes of administering to counties affiliated pursuant to this
24 section, any county electing to affiliate shall be included in the definition
25 of "employer", as defined in section 31-31-102 (3), and any covered
26 ~~employee~~ PEACE OFFICER OR FIREFIGHTER of such county shall be
27 included in the definition of "member", as defined in section 31-31-102

1 (4).

2 (8) ANY EMPLOYER PARTICIPATING IN THE SOCIAL SECURITY
3 COMPONENT OF THE STATEWIDE RETIREMENT PLAN CREATED PURSUANT
4 TO ARTICLE 31.5 OF THIS TITLE 31 MAY NOT ELECT COVERAGE UNDER THE
5 STATEWIDE DEATH AND DISABILITY PLAN UNDER PART 8 OF THIS ARTICLE
6 31.

7 **SECTION 12.** In Colorado Revised Statutes, 31-31-706, **amend**
8 (2)(c) as follows:

9 **31-31-706. Affiliation by exempt defined benefit pension plans.**

10 (2) (c) The board may require that employees hired by the local employer
11 with the formerly exempt defined benefit pension plan after the date of
12 incorporation pursuant to this subsection (2) be members of the statewide
13 ~~defined benefit~~ RETIREMENT plan pursuant to ~~part 4 of this article~~ ARTICLE
14 31.5 OF THIS TITLE 31.

15 **SECTION 13.** In Colorado Revised Statutes, **amend** 31-31-708
16 as follows:

17 **31-31-708. Optional affiliation by county sheriff.** Any county
18 that does not cover, under the federal "Social Security Act", as amended,
19 salaried employees whose duties are directly involved with the provision
20 of law enforcement or fire protection as certified by the county may elect
21 coverage under the statewide ~~defined benefit~~ RETIREMENT plan
22 established in ~~part 4 of this article 31~~ ARTICLE 31.5 OF THIS TITLE 31 and
23 the statewide death and disability plan established in part 8 of this article
24 31 by filing a resolution of affiliation with the board. Election of coverage
25 under the plan is irrevocable. Such participation shall be as provided by
26 rules adopted by the board. The board may determine a continuing rate of
27 contribution for all members who are active on the effective date of

1 coverage to fund benefits as may be necessary to ensure that the
2 affiliating employers' coverage shall not have an adverse financial impact
3 on the actuarial soundness of the plan.

4 **SECTION 14.** In Colorado Revised Statutes, 31-31-802, **amend**
5 (2)(a) as follows:

6 **31-31-802. Coverage.** (2) (a) Departments participating in a plan
7 established pursuant to part 4, 5, or 11 of this ~~title~~ ARTICLE 31 OR ARTICLE
8 31.5 OF THIS TITLE 31 and not participating in the plan for disability and
9 survivor benefits under this part 8 may be covered by the provisions of
10 this part 8 in accordance with the terms, conditions, and procedures
11 established by the board.

12 **SECTION 15.** In Colorado Revised Statutes, 31-31-803, **amend**
13 (7)(a) and (12) as follows:

14 **31-31-803. Retirement for disability.** (7) (a) The benefits
15 payable under this section or section 31-31-806.5 to any member who is
16 awarded an occupational disability prior to October 1, 2002, a total
17 disability, or who is permanently occupationally disabled and who is also
18 eligible to receive payments from the member's ~~separate retirement~~
19 INDIVIDUAL account pursuant to ~~section 31-31-406~~ PART 5 OF ARTICLE
20 31.5 OF THIS TITLE 31 or a similar provision in a local pension plan shall
21 be reduced by an amount that is the actuarial equivalent of the benefits
22 such member is eligible to receive from the separate retirement account,
23 whether the benefits received from the account are paid on a periodic
24 basis or in a lump sum.

25 (12) Notwithstanding any limitation provided under article 80 of
26 title 13 ~~C.R.S.~~, or any other applicable limitation, any application for
27 disability must be filed by the member no later than ~~one hundred eighty~~

1 THREE HUNDRED SIXTY-FIVE days after the last day on the payroll under
2 which disability coverage under this section is provided.

3 **SECTION 16.** In Colorado Revised Statutes, 31-31-804, **amend**
4 (2) as follows:

5 **31-31-804. Reduction of disability benefits - definitions.**

6 (2) The benefits payable under section 31-31-803 or 31-31-806.5 to any
7 member who is occupationally disabled prior to October 1, 2002, is
8 permanently occupationally disabled, or who is totally disabled and who
9 at the time of the award of such benefits is a member of a money purchase
10 plan pursuant to this article or article 30.5 of this ~~title~~ TITLE 31, including
11 any department chief, who at the time of the award of such benefits has
12 been exempted from the statewide ~~defined benefit~~ RETIREMENT plan as
13 permitted by ~~section 31-31-401(4)~~ SECTION 31-31.5-203, shall be reduced
14 by an amount that is the actuarial equivalent of the benefits such member
15 receives from any such money purchase plan, whether the benefits
16 received from the money purchase plan are paid on a periodic basis or in
17 a lump sum. No such reduction shall exceed the actuarial equivalent of
18 money purchase plan benefits if such benefits had been funded at the
19 same rate of contributions specified in ~~section 31-31-402 (1) and (2) as~~
20 ~~is required for benefits under section 31-31-403~~ SECTION 31-31.5-301.

21 **SECTION 17.** In Colorado Revised Statutes, 31-31-808, **amend**
22 (1) as follows:

23 **31-31-808. Reduction of survivor benefits.** (1) The benefits
24 payable under sections 31-31-807 and 31-31-807.5 to the surviving
25 spouse and dependent children of any member, who at the time of the
26 member's death was a member of a money purchase plan established
27 under this article or article 30.5 of this ~~title~~ TITLE 31, including any

1 department chief, who at the time of the chief's death had been exempted
2 from the statewide ~~defined benefit~~ RETIREMENT plan as permitted by
3 ~~section 31-31-401 (4)~~ SECTION 31-31.5-203, shall be reduced by an
4 amount that is the actuarial equivalent of the benefits such surviving
5 spouse and dependent children receive from the money purchase plan,
6 whether the benefits received from the money purchase plan are paid on
7 a periodic basis or in a lump sum. No such reduction shall exceed the
8 actuarial equivalent of money purchase plan benefits if such benefits had
9 been funded at the same rate of contributions specified in ~~section~~
10 ~~31-31-402 (1) and (2)~~ as are required for benefits under section 31-31-403
11 SECTION 31-31.5-301.

12 **SECTION 18.** In Colorado Revised Statutes, 31-31-810, **amend**
13 (1)(b) and (2)(b) as follows:

14 **31-31-810. Employer liability - statewide standard health**
15 **history form.** (1) (b) The board shall enforce a claim for repayment
16 against the employer by either increasing the contribution of the employer
17 under ~~section 31-31-402 (2)~~ PART 3 OF ARTICLE 31.5 OF THIS TITLE 31 or
18 by the commencement and prosecution of a civil action. The choice of
19 remedies shall be in the sole discretion of the board.

20 (2) (b) The board shall enforce a claim for repayment against the
21 employer either by increasing the contribution of the employer under
22 ~~section 31-31-402 (2)~~ PART 3 OF ARTICLE 31.5 OF THIS TITLE 31 or by the
23 commencement and prosecution of a civil action. The choice of remedies
24 shall be in the sole discretion of the board.

25 **SECTION 19.** In Colorado Revised Statutes, 31-31-1101, **amend**
26 (1) as follows:

27 **31-31-1101. Entry into the fire and police pension association**

1 **defined benefit system.** (1) Any employer who has established a local
2 money purchase plan pursuant to part 6 of this article 31 or article 30.5 of
3 this title 31 or has withdrawn into the statewide money purchase plan
4 pursuant to part 5 of this article 31 may apply to the board to require all
5 new employees hired on or after a date certain who meet the definition of
6 member as defined in section 31-31-102 (4) to participate as a group in
7 the defined benefit system in either the DEFINED BENEFIT COMPONENT OR
8 THE HYBRID AND MONEY PURCHASE COMPONENTS OF THE statewide
9 ~~defined benefit RETIREMENT plan established in part 4 of this article 31~~
10 ~~or the statewide hybrid plan established in section 31-31-1102~~ ARTICLE
11 31.5 OF THIS TITLE 31. An application may be initiated by filing with the
12 board a resolution adopted by the governing body of the employer in
13 accordance with the terms, process, certifications, and schedule
14 established by the board.

15 **SECTION 20.** In Colorado Revised Statutes, **add** 31-31-1104 as
16 follows:

17 **31-31-1104. Merger in to the statewide retirement plan.**

18 (1) (a) ON OR ABOUT JANUARY 1, 2023, THE ASSETS AND LIABILITIES OF
19 THE STATEWIDE HYBRID PLAN SHALL MERGE INTO THE STATEWIDE
20 RETIREMENT PLAN CREATED PURSUANT TO ARTICLE 31.5 OF THIS TITLE 31.

21 (b) THE STATEWIDE HYBRID PLAN MEMBERS DEFINED BENEFIT
22 ACCOUNT ASSETS SHALL BE TRANSFERRED TO THE LIFETIME BENEFITS
23 ACCOUNT CREATED PURSUANT TO PART 1 OF ARTICLE 31.5 OF THIS TITLE
24 31.

25 (c) THE STATEWIDE HYBRID PLAN AGGREGATE MONEY PURCHASE
26 ACCOUNTS ASSETS SHALL BE TRANSFERRED TO THE MONEY PURCHASE
27 ACCOUNT CREATED IN PART 1 OF ARTICLE 31.5 OF THIS TITLE 31.

1 (d) DEFERRED RETIREMENT OPTION PLAN ACCOUNT ASSETS OF THE
2 STATEWIDE HYBRID PLAN SHALL BE TRANSFERRED TO THE MONEY
3 PURCHASE ACCOUNT CREATED IN PART 1 OF ARTICLE 31.5 OF THIS TITLE
4 31.

5 (2) ALL REMAINING DEFINED BENEFITS AND OTHER OBLIGATIONS
6 OF THE STATEWIDE HYBRID PLAN PAYABLE ON AND AFTER JANUARY 1,
7 2023, SHALL BE PAID FROM LIFETIME BENEFITS ACCOUNT OF THE
8 STATEWIDE RETIREMENT PLAN. THE MONEY PURCHASE OBLIGATIONS OF
9 THE STATEWIDE HYBRID PLAN SHALL BE TRANSFERRED TO AND BE
10 PAYABLE FROM THE MONEY PURCHASE COMPONENT OF THE STATEWIDE
11 RETIREMENT PLAN. SAID OBLIGATIONS SHALL BE PAID PURSUANT TO THE
12 STATUTORY PROVISIONS AND RULES ADOPTED BY THE BOARD REGARDING
13 THE STATEWIDE RETIREMENT PLAN PURSUANT TO ARTICLE 31.5 OF THIS
14 TITLE 31.

15 (3) PARTICIPATION BY ALL MEMBERS, INCLUDING RETIREES, IN THE
16 STATEWIDE HYBRID PLAN SHALL TERMINATE UPON THE MERGER OF THE
17 PLANS AND SAID MEMBERS SHALL BEGIN PARTICIPATION IN THE HYBRID
18 COMPONENT AND THE MONEY PURCHASE COMPONENT OF THE STATEWIDE
19 RETIREMENT PLAN. ACCUMULATED SERVICE CREDIT AND LENGTH OF
20 SERVICE SHALL BE AGGREGATED BETWEEN THE PLANS. RETIREES SHALL
21 RECEIVE AN ADJUSTMENT TO THEIR BENEFITS BASED ON THE ACTUARIAL
22 FUNDING OF THE PLAN UPON MERGER AS DETERMINED BY THE BOARD.

23 (4) IMMEDIATELY AFTER SUCH TRANSFER, THE AFFECTED
24 MEMBER'S ACCRUED BENEFITS IN THE STATEWIDE RETIREMENT PLAN
25 SHALL BE AT LEAST AS GREAT AS THE MEMBER'S ACCRUED BENEFITS
26 IMMEDIATELY BEFORE THE TRANSFER.

27 (5) THE MERGER IS INTENDED TO BE CONSISTENT WITH THE

1 REQUIREMENTS UNDER SECTION 414(h) OF THE INTERNAL REVENUE CODE
2 AND SHALL NOT BE CONSIDERED A PLAN TERMINATION AND SHALL NOT
3 RESULT IN A DISTRIBUTABLE EVENT.

4 **SECTION 21.** In Colorado Revised Statutes, **repeal** 31-31-402,
5 31-31-403, 31-31-404, 31-31-405, 31-31-406, 31-31-407, 31-31-408,
6 31-31-410, 31-31-411, 31-31-601, 31-31-704.6, 31-31-704.7, and
7 31-31-1102.

8 **SECTION 22. Act subject to petition - effective date.** Sections
9 2 through 4, 6, 8 through 19, and 21 of this act take effect January 1,
10 2023, and the remainder of this act takes effect at 12:01 a.m. on the day
11 following the expiration of the ninety-day period after final adjournment
12 of the general assembly; except that, if a referendum petition is filed
13 pursuant to section 1 (3) of article V of the state constitution against this
14 act or an item, section, or part of this act within such period, then the act,
15 item, section, or part will not take effect unless approved by the people
16 at the general election to be held in November 2022 and, in such case,
17 will take effect on the date of the official declaration of the vote thereon
18 by the governor.

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

Attachment B

BILL B

LLS NO. 22-0172.02 Ed DeCecco x4216

SENATE BILL

SENATE SPONSORSHIP

Garcia and Hisey, Bridges, Kolker, Priola

HOUSE SPONSORSHIP

Bird and Van Winkle, Exum, Sirota

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING A PAYMENT TO THE STATEWIDE DEATH AND DISABILITY**
102 **TRUST FUND TO PAY BENEFITS FOR MEMBERS HIRED BEFORE**
103 **JANUARY 1, 1997.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Pension Review Commission. For members of the fire and police pension association hired before January 1, 1997, death and disability benefits are paid from state money in the statewide death and disability trust fund. State funding for this benefit discontinued in 1997 based on an assumption that the last payment had fully funded all of the benefits to be

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

paid. Based on a current actuarial analysis, however, there is a shortfall in the trust fund. The bill requires the state treasurer to pay \$33.191 million from the general fund to the fire and police pension association for it to deposit into the trust fund so that there will be sufficient money to pay future death and disability benefits to these members.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 31-31-811, **add** (3.5)
3 as follows:

4 **31-31-811. Funding of death and disability benefits.** (3.5) To
5 ENSURE THAT THERE IS SUFFICIENT MONEY TO PAY DEATH AND DISABILITY
6 BENEFITS FOR MEMBERS HIRED BEFORE JANUARY 1, 1997, THE STATE
7 TREASURER SHALL ISSUE A WARRANT TO THE FIRE AND POLICE PENSION
8 ASSOCIATION ON JANUARY 31, 2022, TO BE PAID FROM THE GENERAL FUND
9 IN AN AMOUNT EQUAL TO THIRTY-THREE MILLION ONE HUNDRED
10 NINETY-ONE THOUSAND DOLLARS. THE BOARD SHALL DEPOSIT THIS
11 MONEY IN THE STATEWIDE DEATH AND DISABILITY TRUST FUND CREATED
12 IN SECTION 31-31-813.

13 **SECTION 2. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, or safety.

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

Attachment C

BILL C

LLS NO. 22-0174.01 Jason Gelender x4330

HOUSE BILL

HOUSE SPONSORSHIP

Bird and Sandridge, Exum, Sirota

SENATE SPONSORSHIP

Kolker and Priola, Garcia

House Committees

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT THE STATE MAKE AN ADDITIONAL**
102 **DIRECT DISTRIBUTION TO THE PUBLIC EMPLOYEES' RETIREMENT**
103 **ASSOCIATION TO FULLY RECOMPENSE THE ASSOCIATION FOR**
104 **THE CANCELLATION OF A PREVIOUSLY SCHEDULED JULY 1, 2020,**
105 **DIRECT DISTRIBUTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Pension Review Commission. In order to fully recompense the public employees' retirement association (PERA) for the cancellation of

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Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

a previously scheduled July 1, 2020, direct distribution of \$225 million, the bill requires an additional direct distribution to PERA of \$303.57 million to be made on July 1, 2022. \$303.57 million is the sum of \$225 million plus an estimate of investment gains that would have accrued on that amount from July 1, 2020, through June 30, 2022, based on PERA's actual one-year total fund policy benchmark return from July 1, 2020, through June 30, 2021, plus PERA's assumed one-year rate of return of 7.25% from July 1, 2021, through June 30, 2022.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-51-414, **add** (6) as follows:

24-51-414. Direct distribution. (6) IN ORDER TO FULLY RECOMPENSE THE ASSOCIATION FOR A DISTRIBUTION IN AN AMOUNT EQUAL TO TWO HUNDRED TWENTY-FIVE MILLION DOLLARS THAT IT HAD BEEN SCHEDULED TO RECEIVE ON JULY 1, 2020, PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION BUT DID NOT RECEIVE DUE TO THE ENACTMENT OF HOUSE BILL 20-1379, WHICH AMENDED SUBSECTION (1)(a) OF THIS SECTION AND ADDED SUBSECTION (1)(b) OF THIS SECTION TO ELIMINATE THE DISTRIBUTION, IN ADDITION TO THE WARRANTS ISSUED PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION, ON JULY 1, 2022, THE STATE TREASURER SHALL ISSUE A WARRANT TO THE ASSOCIATION IN THE AMOUNT OF THREE HUNDRED THREE MILLION FIVE HUNDRED SEVENTY THOUSAND DOLLARS. THE WARRANT SHALL BE PAID TO THE ASSOCIATION FROM THE GENERAL FUND OR ANY OTHER FUND.

SECTION 2. In Colorado Revised Statutes, 24-51-416, **amend** (2) as follows:

24-51-416. PERA payment cash fund - creation. (2) The state treasurer shall pay from the fund any portion of the warrant required to be issued on July 1, 2022, under section 24-51-414 (1)(a) that would have

1 otherwise been paid from the general fund. The state treasurer may ALSO
2 pay from the fund some or all of the portion of the warrant required to be
3 issued ON JULY 1, 2022, UNDER SECTION 24-51-414 (6) THAT WOULD HAVE
4 OTHERWISE BEEN PAID FROM THE GENERAL FUND OR SOME OR ALL OF THE
5 PORTION OF ANY WARRANT REQUIRED TO BE ISSUED after July 1, 2022,
6 under section 24-51-414 (1)(a) that would have otherwise been paid from
7 the general fund.

8 **SECTION 3. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, or safety.